

# Town of West Boylston General Bylaws

*2019*



As Amended by the May 20, 2019 Semi-Annual Town Meeting

Elaine S Novia, Town Clerk

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Clerk

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# Town of West Boylston General Bylaws

ADOPTED FEBRUARY 5, 1940

## Article I- Town Meetings and Elections

### SECTION 1

The annual town election shall be held on the first Tuesday in June of each year. All officers which are required by law to be elected by ballot and all matters, the determination of which are required by law to be on the ballot, shall be considered at this time.

There shall be two scheduled town meetings each year. All business other than that stated above, will be considered either at the Semi-annual Town Meeting to be held the third week in May or at the Semi-annual Town meeting to be held in the third week in October at times designated by the Board of Selectmen.

The Moderator shall to the time and date establish any adjournment of such meetings. The Board of Selectmen, by a majority vote, may convene Special Town meetings at any other time during the year. Any adjournment of such meetings shall be to the time and date established by the Moderator. *A29 Feb 5, 1940, A32 Feb 4 1946, A10 Dec 12, 1960, A29 Mar 5, 1973, A15, 21, 22 May 15, 1989, A19 Oct 16, 1995, A16 Nov 9, 1998, A2 Nov. 19, 2009*

### SECTION 2

Warrants for all town meetings and elections shall be posted at the post office, the municipal office building, the municipal light plant, the Beaman Memorial Public Library, and the place of the town meeting and election at least seven (7) days before an election and the Semi-Annual Town Meeting and no later than fourteen (14) days before a Special Town Meeting. *A29 Feb 5, 1940, A15 May 20, 1991, A16 Nov 9, 1998*

### SECTION 3

One hundred (100) legal voters, including the presiding officer and the clerk, shall constitute a quorum, provided that a number less than a quorum may vote an adjournment; and that not more than Seventy-five (75) shall be required to maintain a quorum once the meeting has been called to order by the Moderator and that a quorum of Seventy-five (75) be required to reconvene any adjourned session of any such meeting. *A29 Feb 5, 1940, A27 Mar 7, 1949, A11 Dec 12, 1960, A3 Mar 18, 1991*

### SECTION 4

If the Moderator, or the meeting by vote, so orders, only voters shall be admitted to a defined portion of the place of meeting and the check list shall be used in the enforcement of such order. *A29 Feb 5, 1940*

### SECTION 5

All amendments and/or motions made from the floor at the meeting must be given to the Town Clerk in writing prior to the adjournment of the meeting. *A20 Oct 17, 1994*

### SECTION 6

All department heads, elected and appointed boards and committees, except the School Committee, will provide to the Town Administrator, prior to April 1 of each year, a list of all positions to be filled for the next fiscal year indicating the number of hours to be worked by each such employee indicating those

working less than twenty (20) hours and those working twenty (20) or more hours. Those working less than twenty (20) hours per week will not be entitled to retirement or health insurance benefits in conformity with the provisions of Massachusetts General Laws, Chapter 32 and 32B, and the cost of such benefits will therefore not be included in the next fiscal year's appropriation for retirement and health insurance costs. The School Committee will provide to the Town Administrator, prior to April 15th each year, the number of positions eligible for retirement and health insurance benefits and the total cost of health and retirement benefits for all of the school employees for the next fiscal year. All such information is to be used to calculate the amount required to be included in the line item for health and retirement benefits. Once the amount required to fund retirement and health benefits for all town and school employees has been calculated and appropriated by Town Meeting, there will be no increase made in hours of part-time employees that would increase their eligibility for retirement or health benefits unless the proponent secures a vote from Town Meeting to increase the appropriate line item to fund such increases. *A33 May 20, 2002*

## **SECTION 7**

If a two-thirds vote of Town Meeting is required by statute, the Moderator may, at his or her discretion, decline to verify a voice vote by polling the voters or by dividing the meeting, and may record the vote as a two-thirds vote without taking such a count. *A6 Oct 20, 2008*

## **SECTION 8**

No board, committee or commission may meet on a town, state, or federal election day. *A6 10-19-2009*

# **ARTICLE II- TOWN OFFICERS AND DUTIES**

## **SECTION 1**

The following officers shall be elected by ballot in accordance with the General Laws:

Moderator, for a term of three years; Town Clerk, for a term of three years; Selectmen, five members, one or two elected each year for a term of three years; School Committee, five members, one or two elected every year for a term of three years; Cemetery Trustees, three members, one elected each year for a term of three years; Library Trustees; six members, two elected each year for a term of three years; Planning Board, five members, one elected each year for a term of five years; Municipal Light Board, three members, one elected each year for a term of three years. Housing Authority, as provided for in G.L. c. 121B, § 5. *A29 Feb 5, 1940, A6 Dec 30, 1946, A6 Sept 9 1957, A14 Dec 12, 1960, A30 Apr 4, 1977, A11 Oct 20 2008*

## **SECTION 2**

All annual appointments shall be made subsequent to the Annual Town Election, unless otherwise provided by law.

Performance reviews of the Chief of Police, the Director of Public Works, the Fire Chief, and the Town Administrator shall be made part of the entire re-appointment process for these appointed employees.

*A29 Feb 5, 1940, A12 Dec 12, 1960, A29 Mar 5, 1973, A5 Mar 19, 1990, A7 May 21, 1990, A20 Oct 16, 1998*

## **SECTION 3**

Town officers, boards and committees shall have the powers, duties and privileges of their respective offices in accordance with the General Laws and these by-laws. *A29 Feb 5, 1940, A19, May 17, 2004*

#### **SECTION 4**

All Town officers, boards and committees shall, at the expiration of their terms of office, turn over to their successors, or to the Selectmen if there be no successors, all books, papers, documents and other properties in their custody belonging to the Town. *A29 Feb 5, 1940*

#### **SECTION 5**

In conformity with the provisions of Section 6, Section 8(h), and Section 11 of Chapter 23 of the Acts of 1995, the Town Administrator shall appoint a person qualified by training, education and experience to have control of the fire department to be known as the chief of the fire department who shall have all the powers and responsibilities of the Fire Chief under Massachusetts General Laws, Chapter 48, Sections 42 and who shall serve for a term of up to three years under an employment contract as allowed by Massachusetts General Laws, Chapter 41, Section 108 O to be negotiated by the Town Administrator, subject to the approval of the Board of Selectmen.

The Fire Chief will continue to serve until the effective date of the appointment of the Fire Chief. *A29 Feb 5, 1940\*

### **ARTICLE III- TOWN CLERK**

#### **SECTION 1**

The Town Clerk shall within ten days after the final adjournment of any Town Meeting, submit to the Selectmen a copy of the official record of such meetings and the Selectmen shall cause the same to be published in the Annual Town Report. *A29 Feb 5, 1940*

#### **SECTION 2**

Town Clerk shall make and keep an index of town clerk records. *A29 Feb 5, 1940, A7 Oct 20, 2008*

#### **SECTION 3 – FILING OF BUSINESS CERTIFICATES**

Any person conducting business in the Commonwealth of Massachusetts under any title other than the real name of the person conducting the business, whether individually or as a partnership, whose office is situated in the Town of West Boylston shall file in the office of the Town Clerk, a certificate stating the full name and residence of each person conducting such business, the place, including street and number, where, and the title under which it is conducted, and shall amend and/or renew said certificate from time to time, and pay the appropriate fee, as required by M.G.L. Chapter 110§5.

Violations of this bylaw shall be punished pursuant to M.G.L. Chapter 40, §21 and §21D and Town Bylaw, Enforcement, Article XXV, by a fine of up to \$300.00 for each month during which such violations continue.

*A10 Oct 20, 2008*

### **ARTICLE IV- OFFICE OF FINANCIAL MANAGEMENT**

#### **SECTION 1**

The Town Administrator shall supervise the Office of Financial Management, which shall encompass and include the responsibilities and activities of the Treasurer/Tax Collector, Assessors and Town Accountant.

*A29 Feb 5, 1940, A22 Oct 24, 1994*

#### **SECTION 2**

The Treasurer shall, in addition to such matters as required by law, pay money from the Town treasury only by bank check and by authority of a warrant approved by the Board of Selectmen.

He/she shall furnish to the Town Administrator such statements regarding Town funds as requested by the Town Administrator; and shall prepare and submit to the Town Administrator, for publication in the Annual Town Report, a statement of all the Treasurer's receipts and expenditures, of any balance on hand and a detail of the Town debt. *A29 Feb 5, 1940, /a1 Jan 22 1991*

### **SECTION 3**

The depreciation and trust funds of the Town, unless otherwise specified in the General Laws, shall be deposited at interest by the Treasurer, with the approval of the Town Administrator, in one or more banking institutions under the supervision of the State Bank Commissioner or whose deposits are insured by a federal agency. These funds or portion thereof may be transferred from Treasurer with the approval of the Town Administrator. *A29 Feb 5, 1940, A 12, Oct 19, 1992, A22 Oct 24, 1994*

### **SECTION 4**

The records of the Office of Financial Management shall be audited by an independent agency or firm at least once every three (3) years. *A22 Oct 24, 1994*

### **SECTION 5**

The board of Assessors shall, in addition to such matters as required by law, provide the public by December 31st annually with a comprehensive report containing all the statistics and available data used by the Board of Assessors in the assessment of real property value used in the establishment of a municipal real estate and personal property tax rate for the municipal fiscal year commencing on the July 1st of the same calendar year. The report and related mapping information shall be made available to the public during the hours of operation of the Office of the Board of Assessors. The Board of Assessors shall file copies of the report with the Town Clerk and Board of Selectmen, and further, shall make it available to the public in printed or electronic format. The contents of the report, for each property listed, shall include the last name of the property owner, street number, street name, assessors map number, lot number, parcel number, land value, building value and total assessed value. It shall also include, if available, the book and page of the deed as recorded at the Worcester District Registry of Deeds. *A 22, Oct 24, 1994, A20 May 17, 2004, A24 May 19, 2003*

### **SECTION 6**

The Town Accountant shall, in addition to such matters as required by law, furnish in his/her annual report a balance sheet showing the assets and liabilities of the Town and an analysis of the expenditures under each appropriation, and a listing of the total amounts paid to each person and business organization.

He/shall shall furnish such statements and reports regarding financial transactions of the Town as the Town Administrator may request.

### **SECTION 7**

The Town Administrator shall develop a comprehensive set of written financial management and fiscal policies for review and approval by the Board of Selectmen. The Town Administrator shall develop said policies after receiving the advice and recommendations of the Finance Committee. *A13 May 15, 2003, A8 Oct 20, 2008*

### **SECTION 8 - CAPITAL INVESTMENT BOARD**

(A) Section 2 of Chapter 117 of the Acts of 1995 established a board to be known as the Capital Investment Board comprised of seven (7) voters of West Boylston, of whom at least four shall be members of the Finance Committee. Said Board shall choose its own officers, set its own rules and shall serve

without pay, except the clerk who may receive reasonable compensation for his/her services. The Clerk of this Board may or may not be a member of the Board. The Moderator shall appoint the members of this Board for a term of three years. The Moderator shall forthwith fill by appointment any vacancies that occur in this membership and said appointee shall serve for the remainder of his predecessor's term of office.

(B) The Board shall consider matters relating to appropriations from the Capital Investment Fund, and may, but is not required to, make recommendations to the Town or any board, committee, or official thereof, relative to matters and establish policies relative to the funding of capital projects of the Town and set priorities and schedules for such capital projects. The Board may study proposed capital outlays involving the acquisition of land or an expenditure of \$20,000 or greater having a useful life of at least five years. All officers, boards, and committees, including the Selectmen and the School Committee, shall by September 1st each year give to such Board, on forms prepared by it, information concerning all projects anticipated by them to need Town Meeting action during the ensuing six years. The Board shall consider the relative need, timing, and cost of these expenditures and the effect each will have on the financial position of the Town.

(C) The Board shall transmit its recommendations to the Town Administrator, as well as the appropriate officer, board, agency or department involved in proposed capital improvement. These shall constitute a Capital Improvement Program. The report of this program shall, as to items planned for the ensuing fiscal year, be given to the Town Administrator and Finance Committee for their review and possible inclusion in the budget. The text and tables of a capital program for the following five years shall be published with the Town Administrator's report. Such capital program after its adoption shall permit the expenditure on projects included therein of sums from departmental budgets for surveys, architectural or engineering advice, options, or appraisals; but no such expenditure shall be incurred on projects which have not been approved by the Town through the appropriations of sums in the current year or in prior years.

(D) In accordance with Chapter 117 of the Acts of 1995, the Town of West Boylston hereby establishes and shall maintain a special fund to be known as the Capital Investment Fund. The Town may appropriate to the Capital Investment Fund by a majority vote at an annual or special town Meeting in any year an amount not exceeding ten percent of the amount raised in the preceding fiscal year by taxation of real estate and tangible personal property. The aggregate amount of said fund at any time shall not exceed ten percent of the equalized valuation of the Town, as defined in section one of Chapter 44 of the General Laws. Any interest shall be added to and become part of the Capital Investment Fund. The Treasurer of the Town shall be the custodian of the fund and may deposit proceeds in national banks or invest the proceeds by deposit in savings banks, cooperative banks or trust companies organized under the laws of the Commonwealth or invest the same in such securities as are legal for the investment of funds of savings banks under the laws of the Commonwealth or in federal savings and loan associations situated in the Commonwealth. The Capital Investment Fund may be appropriated at Semi-Annual Town Meetings by a two-thirds vote. Said fund may be appropriated for any purpose for which the Town would be authorized to borrow money under sections seven and eight of Chapter 44 of the General Laws, other than clauses (1) and (2) of Chapter 44 Section 8, and to pay the debt service on said projects, which are approved by the by the Capital Investment Board. *A44 May 16, 2005, A88, D Oct 20, 2008, A8 Oct 17, 2005*

## **SECTION 9**

The Town Administrator shall develop and maintain a ten (10) year Capital Improvement Plan for all of the town's assets with a replacement value of Five Thousand Dollars (\$5,000) or more, and submit the Capital Improvement Plan with appropriate and prudent borrowing and debt management to the Board of Selectmen and Finance Committee as part of the annual plan and recommendation prepared by the Town Administrator.

The Capital Improvement Plan shall include, but not be limited to, the following:

- Department Capital Project or Acquisition Request and Cost Justification Statement
- Estimated life-cycle costs and impact on annual operating budget of new facility, project or equipment
- Methodology and Criteria used to establish funding priority, and
- Financing Plan, including, but not limited to, recommendations on:
  - a) type and source of funding,
  - b) projected debt service schedule,
  - c) tax rate impact analysis, including Proposition 2 ½ Override, Debt Exclusion or Capital Exclusion recommendations, as appropriate. *A8 Oct 17, 2005*

## **ARTICLE V- TOWN – WIDE PLANNING COMMITTEE**

### **SECTION 1**

The Town-wide Planning Committee shall encourage, assist and review long and short term planning efforts by boards, committees and officials of the Town and incorporate these plans into a comprehensive Town-wide plan.

The Town-wide plan shall be presented to the Town meeting for approval by the voters. The comprehensive Town-wide plan shall be reviewed and updated at least every five years. *A29 Feb 5, 1940, A22(b) Feb 1, 1943, A30 Apr 4, 1977, A23 Oct 24, 1994*

### **SECTION 2**

The comprehensive Town-wide plan shall include the capital needs of the Town with a schedule for fulfilling these needs. The Town-wide Planning Committee shall make recommendations at Town Meetings on all articles involving capital expenditures as they relate to the comprehensive Town-wide plan. *A23 Oct 24, 1994*

### **SECTION 3**

The comprehensive Town-wide plan shall also include land use, open space, economic development, facilities and any other plans necessary to fulfill the future needs of the Town and its citizens. *A23 Oct 24, 1994*

### **SECTION 4**

The membership of the Town-wide Planning Committee shall consist of thirteen (13) members, including the Town Administrator as chairperson, and twelve (12) members appointed in conformity with the provisions of Chapter 23 of the Acts of 1995 as follows:

One representative or designee from the Board of Selectmen; one representative or member of the School Committee; one representative or designee from the Planning Board; one representative or designee from the Finance Committee; and eight other voters, six of which shall not be municipal employees or officials. Effective July 1, 1998 the Town Administrator shall appoint four members to a one year term, four members to a two year term, and four members to a three year term, and upon expiration of said terms, the members or their successors shall be appointed to terms of three years. *A23 Oct 24, 1994, A26 May 18, 1998, Section 5 A44 May 16, 2005, Deleted by A9 Oct 20, 2008 and moved to its own Article XXXIV*

## ARTICLE VI- FINANCE COMMITTEE

### SECTION 1

The Finance Committee shall be appointed by the Selectmen. It shall consist of nine voters of the Town who do not hold elective office. Three members of this committee shall be appointed to serve one year, three members shall be appointed for two years, and three members to serve three years. Thereafter their successors shall be appointed to serve three years. Appointments will begin July 1 and end June 30.

A quorum of the Finance Committee shall be four (4) members. *A29 Feb 5, 1940, A22(b) Feb 1, 1943, A30 Apr 4, 1977, A28 Apr 24, 1978, A11 Oct 19, 1992, A45 May 16, 2005*

### SECTION 2

The Finance Committee shall choose a chairman and clerk and cause to be kept a true record of its proceedings. *A29 Feb 5, 1940*

### SECTION 3

It shall be the duty of the Finance Committee to consider all articles on every warrant for a Town Meeting which relates to finances and it shall report to the Town Meeting in writing, where ever possible, its recommendations thereon.

Failure of the committee shall not in any way restrict the actions of the Town Meeting. *A29 Feb 5, 1940, A25, May 15, 1989*

## ARTICLE VII- TOWN ACCOUNTANT

### SECTION 1

The Town Accountant shall, in his annual report, in addition to such matters as required by law, furnish a balance sheet showing the assets and liabilities of the Town and an analysis of the expenditures under each appropriation and a listing of the total amounts paid to each person and business organization. He shall furnish such statements and reports regarding the financial transactions of the Town as the Town Administrator may request. *A29 Feb 5, 1940, A13 Dec 12, 1960, A30 Apr 4, 1977, A17 Oct 19, 1992, A21 Oct 16, 1995*

### SECTION 2

The Town Accountant shall prepare a set of comprehensive quarterly financial reports in conformity with the standards of the Massachusetts Department of Revenue (DOR), the Governmental Accounting Standards Board (GASB), and generally accepted accounting standards to communicate the state of the town's financial activity.

The quarterly Financial Report shall include, but not be limited to, the following components:

- Comparison of Budget and Actual – General Fund,
- Three Year Comparative Report – General Fund, Summarized by Category,
- General Fund Appropriation Detail Report
- Schedule of Available Funds and Expenditures – Special Revenue & Enterprise Funds and
- Combined Statement of Revenues, Expenditures, and Changes in Fund Balances

The Town Accountant shall prepare and submit a Quarterly Financial Report within forty-five (45) calendar days of the end of each quarter of the fiscal year.

The Town Accountant shall provide the monthly financial statements and reports required by the Town Administrator and the Board of Selectmen for the prudent and orderly financial management of the town. Monthly and intermittent reports should contain the following information, in addition to any additional information required by the Town Administrator:

- Revenues anticipated and received during the month compared with original expectations,
- Status of appropriations, allocations, and allotments during the period, department by department, with comments as to the prospects for the remainder of the year, and
- Pro-Forma forecast of fund and cash positions to the end of the fiscal year.

The Town Accountant shall submit copies of all required statements and reports to the Town Administrator, the Board of Selectmen and the Finance Committee. *A29 Feb 5, 1940, A12 May 15, 2000*

## **ARTICLE VII- TOWN COUNSEL**

### **SECTION 1**

The Town Administrator shall annually and whenever the office is vacant for any reason, appoint a Town Counsel, who shall be an attorney or a firm, and shall hold office for the term of one year from the first day of May or until a qualified successor is appointed. Town Counsel shall receive such compensation as the Town Administrator determines, subject to the appropriation of the Town thereof. *A29 Feb 5, 1940, A13 Dec 12, 1960, A30 Apr 4, 1977, A17 Oct 19, 1992, A22 Oct 16, 1995*

### **SECTION 2**

The Town Counsel shall act as the legal advisor and counselor of the Town. The Town Administrator may, however, in any case and at his discretion, employ additional or special counsel. *A29 Feb 5, 1940, A22 Oct 16, 1995*

### **SECTION 3**

It shall be the duty of the Town Counsel to fully protect the interest of the Town in all matters of law. *A29 Feb 5, 1940*

### **SECTION 4**

He shall transmit to the Town Administrator copies of all letters and opinions given by him to any other Town officers. *A29 Feb 5, 1940, A22 Oct 16, 1995*

## **ARTICLE IX- INSPECTOR OF WIRES**

### **SECTION 1**

The Town Administrator shall annually, and whenever the office is vacant for any reason, appoint a licensed electrician as Inspector of Wires who shall hold office until his successor is appointed and qualified. *A29 Feb 5, 1940, A23 Oct 16, 1995*



## **SECTION 2**

The Inspector of Wires shall exercise all powers and duties conferred upon him by General Laws and the By-laws of the Town relating to electric wires, conduits and apparatus. *A29 Feb 5, 1940*

## **SECTION 3**

Every corporation or person proposing to place or attach wires designed to carry a current of electricity for lighting, heating or power in, on, or attached to a building, pole, or structure shall give written notice thereof to the Inspector of Wires before commencing work and shall not energize such wires until written permission to do so has been given by said Inspector of Wires. *A29 Feb 5, 1940*

## **SECTION 4**

Whenever, in the opinion of the Inspector of Wires, any electrical conductors or apparatus used for the distribution or application of an electrical current in, on, or attached to a building, pole, or structure are in an unsafe or dangerous condition, he is hereby authorized to cause electricity to be shut off if the existing defects are not remedied within a reasonable period of time as determined by the Selectmen. *A29 Feb 5, 1940*

# **ARTICLE X- INSPECTOR OF BUILDINGS**

## **SECTION 1**

The Town Administrator shall, whenever the office is vacant or soon to be vacated for any reason, appoint a person who is properly certified and qualified in building construction as Inspector of Buildings.

The Inspector of Buildings may be removed for cause from his position at any time. The Inspector of Buildings shall hold his office until such time as he or she is removed from office. *A29 Feb 5, 1940, A24 Oct 16, 1995, A25 May 18, 1998*

## **SECTION 2**

The Inspector of Buildings shall have all the powers and duties conferred upon him by the General Laws and the By-laws of the Town relating to building regulations. He shall order to be stopped all construction or alterations of buildings which are in violation of said General Laws and by-laws. *A29 Feb 5, 1940*

## **SECTION 3**

Any person dissatisfied with a decision of the Inspector of Buildings on any matter left to his discretion by the General Laws and of the By-laws of the Town may appeal therefrom to the Board of Appeals within thirty days from the date of such decision. *A29 Feb 5, 1940, A24 Oct 16, 1995*

# **ARTICLE XI- BOARD OF APPEALS**

## **SECTION 1**

There shall be a Board of Appeals consisting of five members appointed by the Selectmen, one for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, and one for a term of five years. Said board shall elect annually a chairman and a clerk from its own number.

There shall be three associate members of the Board of Appeals appointed by the Board of Selectmen. Each shall serve a term of five years.

In the case of a vacancy, inability to act, or interest on the part of a member of the Board of Appeals, his place may be taken by an associate member designated by the chairman. *A29 Feb 5, 1940, A27 Mar 7, 1960, A25 Mar 1, 1971*

## **SECTION 2**

The Board of Appeals shall have all the powers and duties of such a Board under the Subdivision Control Law and the Zoning Enabling Act.

Action of the Board of Appeals shall be decided by the number of concurring votes provided by law; but, where no special provision is made, three or more concurring votes shall be final.

The State Building Code of Appeals, as provided by the State Building Code, General Laws, Chapter 802, as amended, will govern appeals to the Building Regulations as contained in the General Laws and these by-laws. *A29 Feb 5, 1940, A27 Mar 4, 1960, A30 Apr 4, 1977*

## **ARTICLE XII- PUBLIC WAYS AND PROPERTIES**

*A43 May 17, 2010 (old section deleted and replaced)*

### **SECTION 1**

No person shall drive, propel, wheel, or draw a vehicle of any kind whatsoever, except for a wheelchair, bicycle, child's stroller or wagon, or snow blower upon a Town sidewalk.

### **SECTION 2**

No person shall place, or allow to remain, any vehicle, wood, construction material, gravel, merchandise, trash, snow, ice, basketball hoop nor any other type of obstruction within the limits of any street or upon any sidewalk so as to obstruct the travel thereon in any way.

### **SECTION 3**

No person shall fasten a horse or other animal to any public place, shade tree, post, pole, or fence. No person shall allow any horse or livestock to travel upon any sidewalk.

### **SECTION 4**

No person shall place any sign or notice upon any public building, shade tree, fence, street sign, or utility pole under the control of the Town, except with the permission of the Selectmen or other appropriate public agency.

### **SECTION 5**

No person shall operate a motor vehicle on a public way in the Town of West Boylston at a rate of speed inconsistent with posted speed limits or that endangers public safety or convenience.

### **SECTION 6- PRIVATE STREET REPAIRS**

Requests for repairs to a private street shall be made in writing to the Board of Selectmen by a majority of the owners of property who abut said private street. A list of abutters shall be approved by the Board of Assessors prior to submittal.

All repairs will be done at the sole discretion of the Board of Selectmen.

The cost of all administration, materials, and construction to repair a private street shall be paid by the abutters of said private street in the form of a betterment charge.

Repairs shall be limited to the filling of holes or depressions with suitable materials to make streets passable, the resurfacing or reconstruction of streets with the appropriate materials approved by the Board of Selectmen, and/or the installation of drainage.

The Town of West Boylston shall bear no liability for repairs to private streets under the provision of Chapter 40, Section 6N of the Massachusetts General Laws.

Repairs made pursuant to this by-law shall be limited to the following unaccepted private streets or specified portions thereof:

Alczar Avenue	Mary Drive
Alhambra Road	Oak Avenue
Ardmore Avenue	Oxford Street
Brayton Road	Princeton Avenue from Longview Street to dead end
Delmar Drive	Reed Street
Edwards Street	Tobin Lane
Evergreen Avenue	Valley Street
Harvard Avenue	Western Avenue from Prescott Street east to dead end
Howard Ave	

Roadways under the control of a Condominium Homeowners Association or any private road controlled by a Homeowners Association Agreement shall not be covered by Section 6 of this bylaw.

#### **SECTION 8- DRIVEWAY PERMITS**

Any person wanting private access to a public street for a driveway shall apply in writing to the Board of Selectmen, or its designee, on the form entitled Town of West Boylston Street Access Permit. The Director of Public Works shall review the completed permit request form and the proposed work for compliance with the Town of West Boylston's regulations entitled Driveway Location Rules & Regulations and all standards including West Boylston's Stormwater Regulations for public safety and highway design within fifteen (15) days of receipt. The Director of Public Works shall either 1) approve the permit request form, 2) deny it, or 3) refer it to the Board of Selectmen with a written recommendation.

The Board of Selectmen shall review the referred permit request form, the recommendation of the Director of Public Works, and any other relevant information deemed necessary by the Board of Selectmen including, but not limited to, the recommendations of the Chief of Police and the MassDOT, and shall act upon the permit request within forty-five (45) days of receipt.

The Board of Selectmen shall have the authority to adopt regulations for the implementation of this section.

#### **SECTION 9- ROADWAY OPENING PERMITS**

No person, corporation, company, or public utility, may test, bore, core, excavate, plane, recycle, alter or otherwise damage any surface within the public right-of-way within the Town of West Boylston including, but not limited to, the paved or unpaved traveled part of the roadway, and other land within the public right-of-way, without first obtaining a Road Opening Permit from the Town of West Boylston's Director of Public Works.

The regulations, fees, fines, specifications, bond and insurance requirements, and permit application requirements shall be defined in the document entitled Town of West Boylston Roadway Opening Permit Regulations.

The Board of Selectmen shall establish said requirements, fees, fines, specifications, bond and insurance requirements, and permit application requirements and may, from time to time, amend or alter the same by vote of the Board of Selectmen after a duly held public hearing.

## **SECTION 10**

The Board of Selectmen may make parking rules and regulations relative to parking of vehicles and the establishment of handicapped and restricted parking areas, provided that the public is notified in conformity with the requirements of state law including, but not limited to Massachusetts General Laws, Chapter 40, Sections 21D, 22, 22A et al, and ARTICLE XXIII- Public Hearing And Notice of the General Bylaws.

# **ARTICLE XIII- DISORDERLY BEHAVIOR**

## **SECTION 1**

No person shall loiter or continue to stand on any sidewalk or public place in the Town so as to obstruct the passage of, or to impede, or in any manner annoy other persons, nor shall any person in a street or way, stand or loiter after being directed by a police officer to move on. *A29 Feb 5, 1940*

## **SECTION 2**

No person shall behave himself in a rude or disorderly manner, nor use any indecent, profane, or insulting language, in any public way or place in the Town.

No person shall make any indecent figures, nor write any indecent or obscene words on any building, fence, structure, public place, or any conveyance in the Town. *A29 Feb 5, 1940*

## **SECTION 3**

No person shall throw stones, balls, snowballs, or other missiles nor unnecessarily make any alarming or tumultuous noise, nor light any fires, nor ride upon any hind part of any vehicle without leave, nor play any games, in any street, public way or square in the Town. *A29 Feb 5, 1940*

## **SECTION 4**

No person shall wantonly molest, mar, injure, deface or destroy any fence, guidepost, signboard, street sign, lighting device, or any other property of the Town. *A29 Feb 5, 1940, A14 Oct 20, 2008*

## **SECTION 5**

No person shall keep, use, consume, or have in his possession any alcoholic beverage as defined in Chapter 138, Section 1 of the Massachusetts General Laws, in any building or structure owned by the Town of West Boylston and used for municipal purposes. *A13 Apr 14, 1975*

## **SECTION 6**

No person shall consume any alcoholic beverage as defined in Section 5, in any portion of any structure in the Town of West Boylston, leased, rented or otherwise used for municipal purposes. *A13, Apr 14, 1975*

## **SECTION 7**

No person shall consume any alcoholic beverage as defined in Section 5, while in or upon any public way in the Town of West Boylston. *A13 Apr 14, 1975*

## **SECTION 8**

No person shall consume any alcoholic beverage as defined in Section 5, upon any way, place or building in the Town of West Boylston, to which members of the public have access as invitees or licensees without the permission of the owner or person in control thereof. *A13 Apr 14, 1975*

## **SECTION 9**

No person shall keep, use, consume or have in his possession any alcoholic beverage as defined in Section 5 in any public park or playground in the Town of West Boylston without a license as granted by the Board of Selectmen. *A13 Apr 14, 1975, A3 Oct 21, 2013*

## **SECTION 10**

A police officer witnessing a violation of Sections 5 through 9 of Article XIII of the Town By-laws shall have the right to arrest such person without a warrant and shall bring the person so arrested before the court within twenty-four (24) hours, Sundays and holidays excepted. *A31 Apr 28, 1980*

# **ARTICLE XIV- LICENSES AND PERMITS**

## **SECTION 1**

The Selectmen may license suitable persons to be the collectors of, or dealers in, or keepers of shops, for the purchase, sale, or barter of junk, gold, silver, platinum or jewelry, old metals, or second hand articles, and no person shall be a dealer in, or keeper of a shop as aforesaid without a license. All materials taken in trade shall be held for a minimum of (30) days before the resale, trade, melting, changing the appearance of or any other means of disposing thereof. Audit sheets shall be submitted to the Chief of Police on a weekly basis with record of all transactions, including the date of sale, amount, seller's name and address, date of birth, driver's license number and an itemized list and description of each article. Each Licensee shall also take a color photograph of each item purchased and a color photograph of each person selling said items. Each Audit Sheet shall be legible and written in English. The required reports and photographs may be stored and transmitted electronically if the format is approved by the Chief of Police. The Selectmen may make suitable rules and regulations governing the conduct of such business.

*A29 Feb 5, 1940, A20 May 18, 2015*

## **SECTION 2 SOLICITORS LICENSES**

### **A.**

It shall be unlawful for any person, either as a principal or as an agent for any other person, to go in or upon any premises occupied for residential purposes within the Town for the purpose of soliciting or canvassing from any occupant thereof orders for goods, wares and merchandise, or service, or for the purpose of offering to give or furnish any article or service in order to obtain such order without first having applied for and received from the Chief of Police a solicitor's permit to do so.

### **B. Application**

Any person desiring to procure the solicitor's permit required by this by-law shall apply therefore in writing over his signature to the Chief of Police and such application shall state:

- 1) the name and address of the applicant;

- 2) the name and address of the persons by whom he is employed or for whom he is acting, if any;
- 3) the length of such service with such employer;
- 4) the place and residence and the nature of employment of the applicant during the last preceding year;
- 5) the nature of character, goods, wares, merchandise or services to be offered by the applicant;
- 6) the personal description of the applicant.

#### **C. Issuance; Expiration; Fee**

If the Chief of Police shall be satisfied, after reasonable investigation, that no false statements have been made in the application, and that the applicant and/or his employer is reputable, he shall then issue the permit as applied for.

Such permit shall expire on the thirty-first day of December in the year which such permit shall have been issued. There shall be a charge of \$25.00 for license fee for the issuance of such permit.

#### **D. Possession and Exhibition**

The permit required by this by-law shall be carried at all times by the applicant to whom issued, when soliciting or canvassing in the Town and shall be exhibited by any such applicant whenever he shall be requested to do by any police officer or any person solicited.

#### **E. Revocation**

Any permit required by this by-law may be revoked by the Chief of Police for violation of the law,

#### **F. Exemptions**

No permit to solicit as required by this by-law shall be required in the case of a person who limits his solicitations to the sale of articles for which no license is required in the case of hawkers or peddlers, or of any person holding a hawker's or peddler's license, issued in accordance to the law authorizing the holder thereof to be a hawker or peddler within the Town, or in any case of a person holding transient vendor's license authorizing him to do business in Town.

#### **G. Violations**

Any person violating any of the provisions of this by-law shall, upon conviction thereof, be fined not more than fifty dollars (\$50.00) for each offense. Each separate solicitation or canvassing, whether occurring on the same day or on preceding or following days, shall constitute a separate offense. *A4 Jun 20, 1983*

### **SECTION 3**

The selectmen may license suitable persons to conduct a small engine repair business. This would consist of the repair of snowmobiles, lawnmowers, chainsaws, snow blowers or other pieces of equipment of a similar nature.

Said license does not apply to automobiles, trucks, vans, recreational vehicles or any other motor vehicles of a similar nature. Fee for said license shall be established by the Board of Selectmen. *A6 Jan 22, 1991*

### **SECTION 4 TRANSIENT VENDORS**

**4.1.** The term "transient vendor," for the purpose of this bylaw, shall be the same as defined in Section 1 of Chapter 101 of the General Laws. The term "outdoor transient vendor," for purposes of this bylaw, shall mean any person, either principal or agent, who engages in any exhibition and sale of goods, wares, or

merchandise, in one locality, which business is not conducted in or under a tent, booth, building or other structure.

**4.2** Every transient vendor or outdoor transient vendor, before making any sale of goods, wares, or merchandise in the Town, shall apply to the Board of Selectmen for a license and shall accompany such application with a license fee (as set forth in the Board of Selectmen's rules and regulations). Transient vendors must receive written permission from the owner of the property where they are anticipating conducting their business and present this to the Board of Selectmen at the time of application for a license. Thereupon the Board of Selectmen shall issue a license to the applicant, provided that the applicant meets all the requirements that may be established by this bylaw or regulations adopted hereunder.

**4.3** The Board of Selectmen may adopt regulations to implement this bylaw.

**4.4** Such license shall authorize the sale of goods, wares, and merchandise, and shall remain in force so long as the licensee shall continuously keep and expose for sale in the Town such stock of goods, wares or merchandise, but not later than January 1 following the date of issuance.

**4.5** No license shall be granted under this bylaw until the applicant has complied with the provisions of General Laws, Chapter 101, Section 3, and has exhibited to the Board of Selectmen a license by the Director of Standards of the Commonwealth, where applicable.

**4.6** No person licensed under this bylaw shall conduct business in such a manner as would impede foot or vehicular traffic along or to a public way or public street or public sidewalk or access road or driveway.

**4.7** The Board of Selectmen is hereby authorized to revoke any license under the provisions of this bylaw where the licensee is guilty of violating any provision of this bylaw or regulations adopted by the Board of Selectmen under this bylaw, which violation would make such licensee unfit to hold the license.

**4.8** Any person who violates any provision of this Section 4 or regulations adopted hereunder shall be subject to the penalty set forth in Article XXV. Each day such violation occurs or continues shall be a separate offense

**4.9** Members of the police department duly appointed shall enforce the provisions of this Section 4

**4.10** If any clause, sentence, paragraph or section of this bylaw adopted hereunder or the application thereof to any person or circumstances shall for any reason be adjudged by a court to be invalid, such judgment shall not affect, impair or invalidate the remainder of this bylaw or its application. *A11 May 17, 1993, A41 May 19, 2008*

## **SECTION 5 HAWKERS AND PEDDLERS**

**5.1.** The term "hawkers and peddlers," for the purpose of this bylaw, shall be the same as defined in Chapter 101 of the Massachusetts General Laws.

**5.2** No person shall go from place to place within the limits of the Town of West Boylston selling or bartering, or carrying for sale or barter or exposing therefor, any goods, wares or merchandise, either on foot or from any animal or vehicle, except as authorized by law, without first obtaining a license to do so from the Board of Selectmen upon payment of a license fee (set forth in the Selectmen's rules and regulations) , said fee to be in conformity with Chapter 101 of the Massachusetts General Laws.

**5.3** The Board of Selectmen may adopt regulations to implement this bylaw.

**5.4** Licenses issued under the provisions of this Section 5 shall continue in force no later than January 1 following the date of issuance.

**5.5** The provisions of Section 5.2 shall not apply to any hawking or peddling of newspapers, religious publications, ice, flowering plants and flowers, and wild fruits, nuts and berries, provided however that such hawkers and peddlers shall comply with the provisions of this bylaw and regulations adopted by the Board of Selectmen hereunder, and, before the sale of any of these articles, shall record their names and residences with the Board of Selectmen.

**5.6** The provisions of Section 5.2 shall not apply to any hawker or peddler who has obtained a license from the Commonwealth of Massachusetts, pursuant to G.L. c.101, § 22, provided however, that such hawkers and peddlers shall comply with the provisions of this bylaw and such regulations as may be adopted by the Board of Selectmen.

**5.7** The sale by hawkers and peddlers of jewelry, furs, wines, or spiritous liquors, small artificial flowers or miniature flags is prohibited.

**5.8** Any person licensed under this bylaw or otherwise shall keep said license in his/her possession which shall be readily available for display. The license shall indicate the license number, and shall include the licensee's signature and date of the license expiration. The licensee shall display such license when requested to do so by any officer or agent of the West Boylston Police Department or the Board of Health.

**5.9** No person licensed under this bylaw or otherwise shall conduct business in such a manner as would impede foot or vehicular traffic along or to a public way or public street or public sidewalk or access road or driveway.

**5.10** All hawkers and peddlers shall have adequate trash control.

**5.11** No hawker or peddler shall expose for sale any goods, wares or merchandise until the vehicle or receptacle has been inspected and approved by the Board of Health Agent. Any meats, butter, cheese, fish and fresh fruit or vegetables offered for sale by any hawker or peddler must be inspected by Board of Health Agent.

**5.12** Vehicles utilized for the selling of frozen desserts or confections must have installed on said vehicle an amber flashing light visible from the front and rear of the vehicle and such light must be flashing when the vehicle is stopped for the purpose of transacting business.

**5.13** Failure to comply with this bylaw or the regulations adopted hereunder may result in suspension or revocation of licenses and/or permits granted hereunder. In addition, a penalty fee for each offense may be assessed. Each day on which said violation continues shall be considered a separate offense.

**5.14** Members of the police department duly appointed shall enforce the provisions of this Section 5

**5.15** If any clause, sentence, paragraph or section of this bylaw adopted hereunder or the application thereof to any person or circumstances shall for any reason be adjudged by a court to be invalid, such judgment shall not affect, impair or invalidate the remainder of this bylaw or its application. *A4 Oct 18, 2004,*

*A16 May 17, 2004, A41 May 19, 2008*



## **SECTION 6 MOTEL/HOTEL OPERATION PERMIT**

No person shall operate a motel or hotel, as defined in G.L. c.64G, §1(c) §1(e), but excluding private clubs, without securing a permit from the Board of Selectmen in addition to any other permits or licenses required by state or local law or regulations. The Board of Selectmen may promulgate regulations to implement this bylaw, and may revoke the permit for violation of this bylaw and regulations adopted hereunder.

Violation of this bylaw, or of any regulations adopted hereunder, may be enforced through any lawful means in law or in equity by the Board of Selectmen, the Town Administrator, or their duly authorized agents, or any police officer of the Town of West Boylston including, but not limited to, enforcement by non-criminal disposition pursuant to G.L. c.40, §21D. Each day a violation exists shall constitute a separate violation.

The penalties shall be as follows:

First violation:	\$100.00
Second violation:	\$200.00
Third and subsequent violations:	\$300.00

*A41 May 19, 2008*

## **ARTICLE XV- BUILDING REGULATIONS**

### **SECTION 1 - PERMITS**

No building, structure, foundation, retaining wall, or excavation therefore, and no part of the foregoing, shall be constructed, moved or materially altered, except in conformity with this article and until a permit therefore has been issued by the Inspector of Buildings. Plans and specifications may be required by the Inspector of Buildings before such a permit is issued.

The fee for permits shall be determined by the Inspector of Buildings with the approval of the appointment authority.

All permits shall be void unless operations thereunder are commenced within six months after the date of the permit, or if operations thereunder are discontinued for a period of more than six months. *A29 Feb 5, 1940, A23 May 15, 1995, A25 Oct 16, 1995*

### **SECTION 2 - DISTANCE FROM THE STREET**

No portion of any building or structure, except in the Business District, shall hereafter be constructed nearer than twenty-five feet (25') to the line of any highway, street, or way, as laid out, except where there are buildings within one hundred feet (100') on either side which are nearer to the street than above specified. No portion of any building or structure in the Business District shall hereafter be constructed nearer than ten feet (10') to the line of any highway, street, or way, as laid out. *A29 Feb 5, 1940, A23 May 15, 1995, A37 May 21, 2001, A38 May 20, 2002*

### **SECTION 3- DISTANCES FROM SIDE LINES**

No portion of any frame dwelling house or frame business building shall hereafter be constructed nearer than ten feet (10') to the side lines of the lot, or nearer than twenty feet (20') to any other frame dwelling house or frame business building. *A29 Feb 5, 1940, A37 May 21, 2001*

#### **SECTION 4- ELECTRICAL INSTALLATIONS**

No electrical installation shall be concealed until inspected and approved by the Inspector of Wires. *A29 Feb 5, 1940*

#### **SECTION 5- INSPECTION**

No person shall lath, plaster, cover or conceal any structure until the Inspector of Buildings has inspected and found suitable fire stops are in place and the structure is properly framed and braced. *A29 Feb 5, 1940*

#### **SECTION 6- SWIMMING POOLS**

A swimming pool is a body of water contained in an artificial receptacle, whether in or above ground, and all pertinences, equipment, and any facilities for its operation, maintenance, or use, used or intended to be used for swimming, wading or recreational bathing.

A residential swimming pool is a pool used or intended to be used solely by the owner or tenant thereof and his family, and by friends of either, invited to use the pool without payment of any fee, but not including pools less than one foot (1') in depth or containing less than 1,000 gallons of water.

Every outdoor residential swimming pool shall be completely surrounded at all times, whether or not the same are filled with water, by a suitable fence or wall not less than four feet (4') in height. A building may be used as part of such enclosure.

All gates or door openings through such enclosure shall be of not less than the same height as the wall or fence and shall be equipped with a self-closing and self-latching device located not more than one foot below the top of the fence or wall for keeping the gate or door securely closed at all times when not in actual use, except that the door of any dwelling which forms a part of the enclosure need not be so equipped.

Each gate or door shall be kept locked at all times when the swimming pool enclosure is not in use. The owner or his agent shall obtain a permit for the construction of a swimming pool and shall submit a plot plan or sketch showing the location of the pool.

Front, side, and rear yards shall comply with the requirements of the district. All lighting of an outdoor residential pool or its enclosure shall be directed at the pool. No such wiring or lighting shall be done without a permit and shall be installed in accordance with the Electrical Code of the Town of West Boylston. *A26 Mar 1, 1971*

#### **SECTION 7**

All other building regulations not contained in Article XV of these by-laws are governed by the Basic State Building Code, General Laws, Chapter 802, as amended. *A30 Apr 4, 1977*

### **ARTICLE XVI- PENALTIES**

#### **SECTION 1**

Whoever violates any of the provisions of these By-laws, unless otherwise specifically provided therein, or otherwise by law, shall be punished by a fine of not more than one hundred dollars (\$100.00) for each offense. Each day that such violation continues shall constitute a separate offense. *A29 Feb 5, 1940, A19 Oct 28, 1985, A9 Feb 24, 1992*

## ARTICLE XVII- REVISION OF THESE BY-LAWS

### SECTION 1

These by-laws may be amended, repealed or annulled at any Town Meeting by a majority of those present and voting upon an article in the warrant for that purpose. *A29 Feb 5, 1940*

### SECTION 2

The By-laws Committee shall review these By-laws from time to time and at least every five years to assure the By-laws are current, coherent and consistent. The Committee shall report its findings to the responsible board. Committee or Commission. The Committee shall review all additions, deletions and changes to the By-laws proposed to Town Meeting and may make recommendations to Town Meeting on such additions, deletions and changes. *A30 Apr 4, 1977 A41 May 17, 2010*

### SECTION 3 BYLAWS COMMITTEE

The By-laws Committee shall consist of the Moderator as Chairman, Town Clerk as Secretary, the chairman of the Board of Selectmen, the chairman of the Planning Board, and three registered voters to be appointed by the Board of Selectmen. The method and term of these appointments shall be determined by the Board of Selectmen. *A26 May 15, 1989 A41 May 17, 2010*

## ARTICLE XVIII- REPEAL

### SECTION 1

All by-laws and parts of by-laws heretofore adopted are hereby repealed and annulled. *A29 Feb 5, 1940*

### SECTION 2

The repeal of a by-law heretofore adopted shall not affect any act done, ratified, or confirmed, or any right accrued or established, nor any action, suit or proceeding commenced or had, nor affect any punishment, penalty, or forfeiture incurred under such by-law. *A29 Feb 5, 1940*

## ARTICLE XIX- DOG CONTROL

### SECTION 1- LICENSES AND TAGS

Any owner or keeper of a dog three (3) months of age or older shall cause it to be annually registered, numbered, described and licensed with the Town Clerk, in accordance with the Laws of the Commonwealth of Massachusetts, for the licensing period beginning April 1st and ending the following March 31st.

As a prerequisite to such licensing, the owner must present evidence to the Town Clerk that the dog, if six (6) months of age or older shall have been vaccinated against rabies within the preceding twelve (12) months by a licensed veterinarian using a vaccine approved by the Department of Public Health. The fee for such license shall be in the amount required by the laws of the Commonwealth of Massachusetts.

The owner or keeper of a licensed dog shall cause it to wear around its neck or body a collar or harness to which shall be securely attached the license tag issued by the Town Clerk for the current licensing period and in addition, the tag evidencing that the dog has been properly vaccinated against rabies. *A7 Apr 4, 1972, A32*

*Apr 24, 1978, A 19 Jul 10, 1978*

## **SECTION 2 - RESTRAINT AND MUZZLING OF DOG BY ORDER OF ANIMAL CONTROL OFFICER UPON WRITTEN COMPLAINT**

If any person shall make complaint in writing to the Animal Control Officer of the Town that any dog owned or harbored within their jurisdiction is a nuisance by reason of vicious disposition or excessive barking or other disturbance, the Animal Control Officer shall investigate such complaint, which may include an examination under oath of the complainant, and may order such dog to be restrained or muzzled. *A7 Apr 24, 1972, A32 Apr 24, 1978, A10 Jul 10, 1978, A25 May 17, 1999*

## **SECTION 3- RESTRAINING OF DOGS**

- a) Whoever owns or keeps a dog within the Town shall confine said dog to the owner's or keeper's premises at all times and shall keep said dog on a leash while on a public way. This section shall not apply to dogs being used for hunting or training purposes
- b) Whoever violates Section 3(a) of this article shall be punished by a fine in accordance with the laws of the Commonwealth of Massachusetts. *A7 Apr 24, 1972, A32 Apr 24, 1978, A10 Jul 10, 1978, A26 Oct 16, 1995*

## **SECTION 4 - FINES**

Any owner or keeper of a dog who shall fail to comply with Section 1 hereof by July 1 or with any order of the Animal Control Officer issued pursuant to Section 2 or 3 of this Article shall be liable to a fine in accordance with the Laws of the Commonwealth of Massachusetts. *A7 Apr 24, 1972, A32 Apr 24, 1978, A10 Jul 10, 1978, A18 Oct 18, 1993, A25 May 17, 1999*

## **SECTION 5- APPEAL**

The owner or keeper of any dog that has been ordered to be restrained or muzzled under Section 2 or 3 of this Article may, within seven (7) days after such an order or restraint, file a request in writing with the Animal Control Officer that the restraining order be vacated or that the dog be released, and after investigation by the Animal Control Officer, said officer may vacate such order to release such dog, with the approval of the majority of the Board of Selectmen, after such hearing or notice as the Board of Selectmen may deem advisable.

If such order is not vacated or the dog is not released, as the case may be, the owner or keeper of such dog, may within twenty (20) days of such order or restraint bring a petition in the Central District Court of Worcester County requesting that the order of restraint be reviewed by the Court and after such notice to the Animal Control Officer as the court may deem necessary, it shall review such action, hear witnesses and reaffirm or reverse the order of the Dog Officer. The decision of the court shall be final and conclusive on both parties. *A7 Apr 24, 1972, A25 May 17, 1999*

## **SECTION 6- REMOVAL OF DOG LITTER**

- a) Removal of Dog Litter If any dog shall defecate upon any public property or area, then the owner, keeper or person then walking or otherwise in charge of said dog shall immediately remove or cause to be removed from said property or area, all feces so deposited by said dog. Such owner, keeper or person when walking or otherwise in charge of a dog on public property or a private area must have in his or her immediate possession an appropriate device for scooping excrement and an appropriate depository for the transmission of excrement to:
  - 1. A receptacle upon property owned by the owner, keeper or person or,
  - 2. A trash receptacle located on public property, if any, designated as a receptacle for dog or pet litter. This provision shall not apply to a person who is visually or physically disabled. Unless said

feces are removed, the owner, keeper and the person then walking or otherwise in charge of said dog (or if said owner, keeper or person shall be a minor, then the parent or guardian) shall be deemed to have committed a punishable offense.

**b) Special Provision-** This bylaw will be enforced by the Animal Control Officer and the Police Department. The commission of any violation of this bylaw shall be punishable by a fine of \$25.00 for the first offense, a fine of \$50.00 for a second offense and a fine of \$100.00 for all other offenses. *A22 Nov 9, 1998*

## ARTICLE XX- PUBLIC ENTERTAINMENT

### SECTION 1

The acts or conduct enumerated in Section 2 of this Article are deemed contrary to the public need and to the common good and therefore are prohibited in or on the premises licensed under the provisions of the General Laws, Chapter 138, Sections 1 and 12 or Chapter 140, Section 181 or 183A. *A2 Sept 28, 1981*

### SECTION 2

The following acts or conduct are prohibited as provided in Section 1 of this Article:

- a) To encourage or permit any person in or on the licensed premises to touch, caress, or fondle the breasts, buttocks, or genitals of any other person.
- b) To employ or permit any person to wear or use any device or covering exposed to view which simulates the breasts, buttocks, pubic hair or genitals or any portion thereof.
- c) To employ or permit any person in or on the licensed premises to perform an act or acts, or to simulate the acts or act of:
  1. Sexual intercourse, masturbation, sodomy, flagellation, or any sexual acts prohibited by law;
  2. Touching, caressing, or fondling of the breasts, buttocks or genitals of another. *A2 Sept 28, 1981, Nov 9, 1998*

### SECTION 3

Nothing contained in this Article shall permit other conduct or activity in or on any licensed premises in violation of any general or special law or by-law now in force or hereafter enacted or adopted. *A2 Sept 28, 1981*

### SECTION 4

Nothing contained in this Article shall limit or prohibit the appropriate licensing authority from adopting additional regulations relating to conduct or activity on licensed premises or from imposing additional conditions on the issuance of any license. *A2 Sept 28, 1981*

### SECTION 5

Violation of the provisions of this Article shall be cause for the suspension or revocation of any license granted pursuant to General Laws, Chapter 138, Sections 1 and 12, or Chapter 140, Section 181 or 183A. *A2 Sept 28, 1981*

### SECTION 6

In addition to the penalty imposed by Section 5, hereof, violations of this By-law shall be punished by a fine of not less than fifty dollars (\$50.00) and not more than one hundred dollars (\$100.00). Each day a prohibited activity occurs shall constitute a separate offense. *A2 Sept 28, 1981*

## **SECTION 7**

In any of the provisions of this Article, or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect any other provisions of this Article, or the application of any other provisions or application thereof, and for this purpose the provisions of this Article are severable. *A2 Sept 28, 1981*

## **ARTICLE XXI-PERSONNEL BYLAW**

*A31 May 28, 1997*

### **SECTION 1**

The Town of West Boylston Personnel Bylaw is established in conformity with the provisions of Massachusetts General Laws, Chapter 41, Section 1 08C and shall be amended as necessary by the Town Meeting. *A10 Jan 26, 1987, A28-30 May 15, 1989, A42 May 16, 2005, A6 May 21, 1990, A31 May 28, 1997*

### **SECTION 2**

There shall be a Personnel Board consisting of five (5) members, one or two appointed each year for a term of three years each. The Personnel Board shall be appointed by the Board of Selectmen and shall consist of four voters of the town who do not hold elective or appointed office and who are not employees of the town and one member shall be a non-union employee of the town; as defined in the Federal Fair Labor Standards Act (FLSA) Section 3 (e). Initially, one member of this committee shall be appointed to serve one year, two members shall be appointed for two years, and two members to serve three years. Thereafter their successors shall be appointed to serve three years. Appointments will begin July 1 and end June 30. Members shall serve without compensation and shall serve until their successors are appointed. *A1 Mar 19, 1988, A20 Oct 18, 1993, A31 May 28, 1997, A21 May 19, 2003, A8 Oct 18, 2010*

### **SECTION 3**

The Personnel Board shall act in an advisory capacity to the Town Meeting and shall prepare a written report stating the Board's recommendations and reasons therefore on all warrant articles involving personnel matters. *A31 May 28, 1997*

### **SECTION 4**

The Personnel Board shall hold public hearings to hear and adjudicate employee grievances in conformity with the Grievance Procedure contained herein below, should the grievance not be settled on the departmental level, or by the Town Administrator or the appropriate elected board, commission or committee. *A31 May 28, 1997*

## **SECTION 5- PERSONNEL POLICY**

### **A- POLICY STATEMENT**

The purpose of this policy is to promote a harmonious and equitable working relationship between the Town of West Boylston, acting by and through its duly elected and appointed executive and management officials, and the employees of the Town of West Boylston in order to promote a work environment conducive to quality and proficient public services to the inhabitants of the Town of West Boylston.

These policies are enacted by the voters of the Town of West Boylston in order to further the following goals:

1. To provide a uniform system of personnel administration for employees not covered by collective bargaining agreements or employment contracts throughout the service of the town;
2. To ensure that recruitment, selection, placement, promotion, retention and separation of town employees are based upon employees' qualifications and fitness, and are in compliance with federal and state laws;

3. To assist supervisors in the development of sound management practices and procedures; and to make effective consistent use of human resources throughout the town;
4. To promote communication between department heads, supervisors and employees; and
5. To ensure, protect and clarify the rights and responsibilities of employees.

The Town of West Boylston, acting by and through the Town Meeting, specifically reserves the right to repeal, modify, or amend this bylaw and the policies contained herein at any time. None of these provisions shall be deemed to create a vested contractual right in any employee nor to limit the power of the Town Administrator or any elected board, commission, or committee to direct or supervise employees under their charge, nor limit the power of the Town Meeting to repeal or modify this bylaw and the policies contained herein, The policies contained herein are not to be interpreted as promises of specific treatment.

It is the right of the Town of West Boylston, acting by and through the Town Administrator, elected boards, commissions, committees, and department heads to direct employees, determine staffing levels, and establish operational budget funding levels; and further, the Town of West Boylston acknowledges the rights of the employees to work in safe and decent working conditions, to receive fair and equitable compensation, and to receive proper training and direction in order to properly discharge their duties and serve the Town of West Boylston.

#### **B- APPLICATION**

All town departments and all regular, temporary, and seasonal positions in the town service, other than the School Department, the Municipal Light Plant, except as otherwise provided for in Part J herein, and positions under their control and those employees covered under collective bargaining agreement, and all other employees covered by collective bargaining agreement and employment contract shall be subject to the provisions of this bylaw.

#### **C- NON-DISCRIMINATION AND EQUAL OPPORTUNITY STATEMENT**

The Town of West Boylston promotes a professional and productive workplace in which all employees are treated with dignity and respect. Employees are expected to act in a positive manner and contribute to a productive work environment that is free from harassing or disruptive activity. Discrimination (including harassment), whether based upon race, color, gender, gender identity, national origin, religion, ancestry, age, sexual orientation, disability, maternity leave, genetic information, active military status, or another basis prohibited under state or federal anti-discrimination statutes, will not be tolerated. This bylaw applies to all employment practices and employment programs sponsored by the Town of West Boylston and shall apply, but not be limited to, the areas of:

- Recruitment,
- Selection,
- Compensation and benefits,
- Professional development and training,
- Reasonable accommodation for disabilities or religious practices,
- Promotion,
- Transfer,
- Termination,
- Layoff, and
- Other terms and conditions of employment.

Employees seeking reasonable accommodations may submit their request in writing to the Town Administrator or his or her designee.

#### **D- ADMINISTRATION**

The Town Administrator shall be responsible for the administration and enforcement of the provisions of the Personnel Bylaws. The Town Administrator, as the chief administrator officer of the Town of West Boylston, shall be responsible for personnel administration in conformity with this bylaw and all applicable federal and state laws and regulations for all departments, boards, commissions, and committees under the Town Administrator's jurisdiction, except for those departments and employees under the jurisdiction of the Cemetery Commission, the Board of Library Trustees, the Planning Board, the Municipal Light Board and the School Committee.

#### **E- STAFFING**

1. The Town Administrator and elected boards, commissions, and committees that are authorized to appoint officials who receive compensation for services performed and to hire employees shall appoint and hire on the basis of merit and fitness alone.
2. The number of employees for any given department is governed by the Town Administrator or elected board responsible for that function. Requests for increasing or decreasing the staff size in any department should be made by the department head and directed to the Town Administrator or the appropriate elected board, commission or committee. Requests for increases in staff must be made during the spring Annual Town meeting budget preparation process for the ensuing fiscal year. The hiring of additional staff shall not take place prior to the appropriations of funds for the new position(s) and shall not become effective until the commencement of the ensuing fiscal year or thereafter.

#### **F- TYPES OF EMPLOYEES**

1	Full – time;	A person who works 32.5 hours in a year round position
2	Part – time;	A person who works a minimum of 20 hours regularly scheduled weekly but less than 32.5 hours in a year round full-time position
3	Seasonal;	A person who is employed for a specific and limited period of time
4	Fractional – time; <small>25 Oct 20, 1997, A11 Nov 9, 1998</small>	A person who works less than 20 hours weekly in the regularly scheduled year round position
5	Emergency Fire Personnel; <small>17 May 19, 2003</small>	All persons reporting to the Fire Chief, including Call and Per Diem. (Call personnel respond to events or stand by when needed. Per Diem personnel fill actual time slots.)
6	Exempt Employee; <small>10 May 17, 1999</small>	An employee who is classified as either an exempt or an excluded employee under the provisions of the Fair Labor Standards Act.
7	Non-Exempted Employee; <small>17 Oct 27, 2003</small>	An employee who is not classified as either an exempt or an excluded employee under the provisions of the Fair Labor Standards Act.

#### **G- NEW OR CHANGED POSITIONS**

Whenever a new position is established, or the duties of an existing position are so changed or reorganized that a new position is created, the Town Administrator or appropriate elected board, commission or



committee shall seek Town Meeting approval on establishing an appropriate grade within the Classification and Compensation Plan contained herein for the new position.

#### **H- RECLASSIFICATION OF EMPLOYEES**

No position may be reclassified to a classification in another compensation grade, either higher or lower, until the Town Administrator or appropriate elected board, commission or committee secures Town Meeting approval on the reclassification of the position to an appropriate grade within the Classification and Compensation Plan contained herein.

No officer, board or employee of the Town, nor any other person shall seek Town Meeting approval on a reclassification of a position or office subject to the requirements of the personnel Bylaw shall seek Town Meeting approval on such a reclassification without meeting the following requirements, prior to presenting a town meeting warrant article for voter consideration to the Board of Selectmen.

#### **REQUIREMENTS**

1. The Personnel Board has previously approved a job description for the position for which reclassification is sought, and
2. A new job description clearly showing a change in the nature of the position for which reclassification is sought so as to increase the job responsibilities of the position, e.g., increase in supervisory, technical expertise or mandatory certification requirements, or similar qualitative change in the nature of the job which requires increased responsibility or skill proficiency, must be approved by vote of the majority of members of the Personnel Board.

#### **I- JOB DESCRIPTIONS**

The Personnel Board shall ensure that there are written job descriptions of the positions contained within the Classification and Compensation Plan, each consisting of a statement describing the essential nature of the work and characteristics that distinguish the position from other positions. It shall be the responsibility of the Town Administrator or the appropriate board, commission, or committee to prepare the written job description for the review and approval of the Personnel Board.

The appropriate department heads shall be required to retain current job descriptions and to submit revisions to the Town Administrator or the appropriate board, commission, or committee for review and approval prior to submission to the Personnel Board for consideration.

#### **I- HIRING PROCEDURES**

The Town Administrator shall be the hiring authority, subject to the review and disapproval authority of the Board of Selectmen in conformity with the provisions of Chapter 23 of the Acts of 1995, provided that no employee shall be hired without the Town Administrator securing the recommendation and advice of the appropriate department head and appointed board, commission and committee under the jurisdiction of the Town Administrator.

This shall not include employees under the jurisdiction of the Cemetery Commission, the Fire Chief, the Board of Library Trustees, the Planning Board, the Municipal Light Board, and the School Committee.

The following procedures shall be used in the hiring process by all hiring authorities of the Town including the Town Administrator, the Cemetery Commission, the Fire Chief, the Board of Library Trustees, the Planning Board, the Municipal Light Board and the School Committee:

1) The Town of West Boylston maintains a policy of promoting from within and will, at least initially, advertise all available positions internally. Internal postings are open to all current employees. Internal notices of vacancies will be posted for a minimum of five (5) working days before any public advertisement process to allow employees an opportunity to submit an application. Notice of vacancies will be posted on the bulletin board in the Town Hall. In addition, copies of postings will be sent to each department. Postings will include the position description, minimum qualifications, salary/wage grade and due date for receipt of applications.

When an application is submitted for a transfer, an employee must meet the following conditions:

- a) be a regular full-time or part-time employee,
- b) have worked for the Town in current position for at least six (6) months,
- c) have satisfactory performance evaluations in current position,
- d) possess stated minimum qualifications for the position,
- e) provide an updated employment application, and
- f) notify current supervisor of intent to apply

The employee who is transferred must serve a designated probationary period in the new position, not to exceed six months.

Upon movement of the employee, all accumulated benefits and service continuity will be transferred if there is no actual break in service.

2) Existing positions that have been vacated will be publicly advertised only after all potential promotional candidates are reviewed. The appropriate hiring authority shall publicly advertise a notice of employment opportunity in a newspaper of regional circulation at least once prior to the deadline for the filing of applications for the position to be filled. The advertisement shall state, at a minimum, the position title, normal hours of work, wage and salary information, minimum qualifications and special skills or licenses required for the position, desired qualifications, the office or address where applications or letters of interest shall be submitted, the deadline for the submission of applications or letters of interest, and the office or department that can provide additional information on the position to be filled.

3) The applicant shall complete an employment application or shall submit a letter of interest and resume prior to the deadline for filing applications or letters of interest.

4) The hiring authority shall maintain a record of the hiring process.

5) The hiring authority, in conjunction with the appropriate department head or appointed board, commission or committee, shall conduct interviews, review the employment applications, perform reference checks, administer any skill or competency testing, as necessary, and perform background checks as required with the consent of the applicant.

6) The hiring authority shall require that a prospective employee take a physical examination, including toxic/drug screening tests for safety sensitive and public safety positions, by a physician designated by the town at the town's expense to ensure that the prospective employee is able to perform the essential duties of the position. The physical examination shall take place prior to the effective date of employment.

7) An employee shall receive a Promotion when the employee changes from a position of lower classification and compensation grade to a position with greater responsibilities in a higher classification and compensation

grade. The employee shall receive the rate of pay in the new compensation grade that results in at least a five-percent increase.

The employee may receive an additional one step-rate increase at the time of the Promotion if the Department Head feels that the employee's qualifications and performance warrant it and if the Town Administrator approves.

The employee receiving the Promotion shall still be eligible for their next step increase on the anniversary of their original date of hire as an employee of the Town of West Boylston. *A34 May 21, 2001, A14 May 19, 2003, A17 Oct 27, 2003*

## **K- WORK HOURS**

The workweek for salary computation purposes extends from 12:01 a.m. on Sunday to 12:00 midnight on Saturday.

The normal scheduled workweek for emergency fire personnel shall be forty-five (45) hours as scheduled by the Fire Chief. Personnel are expected to respond to calls and attend meetings and training outside of the normal hours on an as needed basis. *A17 Oct 27, 2003*

## **L- OVERTIME**

### **Computation:**

Non-exempt employees eligible to receive overtime under this policy shall be paid at the rate of one and one-half (1/2) times their regular rate of pay for all hours worked in excess of eight (8) hours daily within the regularly scheduled work week for respective employee or in excess of forty (40) hours within the work week whichever is greater except for public safety employee, or for work performed in excess of the hours permitted under the Federal Fair Labor Standards Act (FLSA) work week. No employee shall be paid both daily and weekly overtime for the same hours worked. *A22 May 19, 2003*

### **1. Call-in Other Than Emergency Fire Personnel:**

An employee eligible for overtime who is not at work and is called in at a time other than his/her normal scheduled hours are guaranteed payment for four (4) hours. If the employee works less than four (4) hours under the call-in, but immediately continues to work his/her scheduled hours, pay will be for only the actual hours worked preceding the normal work schedule.

### **2. Emergency Fire Personnel:**

Overtime for full-time Fire Department employees, including firefighters, Emergency Medical Technicians and Paramedics shall be paid at the rate of one and one-half (1.5) times their regular rate of pay for all hours worked in excess of fifty-three (53) hours within a work week. *A13 Oct. 18, 1999*

### **3. Emergency Fire Personnel:**

Members of the Fire Department, including Emergency Medical Technicians and Paramedics, called to duty between the hours of 11:00 p.m. and 6:00 a.m. are guaranteed payment for two (2) hours. *A33 May 21, 2001, A15 May 19, 2003*

### **4. Compensatory Time Off:**

Compensatory time off may be accumulated to a maximum of forty (40) hours for all employees, except full-time Emergency Fire Personnel who can accumulate a maximum of fifty-three (53) hours, to be used at a later time upon mutual agreement. (Compensatory time off is compensated at the rate of one and

one-half times the hours accumulated. The maximum hours that could be taken are 60 and 79.5, respectively.)

The town's responsibility for payment of overtime and the granting of compensatory time is as follows:

- a) The town is not obligated by statute to grant all non-exempt employee requests for compensatory time off instead of overtime pay.
- b) The town is required to compensate overtime at the rate of one and one-half times the non-exempt employee's regular rate for hours worked in excess of the number of hours allowed per work week as designated under the FLSA.
- c) Upon request of the non-exempt employee, the town may grant compensatory time off in lieu of overtime at its discretion at the rate of one and one-half times the employee's regular rate.
- d) Compensatory time off may be accumulated to a maximum of forty (40) hours to be used at a later time upon mutual agreement, but shall be used within one year. *A10 May 17, 1999, A26 Oct 20, 1999, A16 May 19, 2003*

## **5. Approval of Overtime And Compensatory Time Off**

Department heads are the authorized authority for the approval of overtime requests. It shall be the responsibility of the department head to determine whether overtime or compensatory time be granted to the employee when compensatory time is requested in lieu of overtime.

Department heads shall ensure that all overtime and compensatory time earned and used is recorded on the employee's time card as it occurs. Department heads will exercise extreme discretion in the utilization of overtime within their departments.

Temporary adjustments in working hours or realignment of duties within the department should be considered as alternatives to the use of overtime. Overtime shall be considered necessary only in emergency situations where additional effort is needed to complete a task which is critical in nature.

It is the responsibility of the individual employee to request compensatory time in lieu of overtime if so desired. Additionally, it is the responsibility of the employee to ensure that accrued compensatory time is used within the time limitation set forth by this policy. *A13 Oct 18, 1999*

## **M- HOLIDAYS**

### **1. Observed Paid Holidays**

Normal compensation will be paid for the eleven (11) holidays listed below to all employees regularly scheduled to work on such holidays:

<b>New Years Day</b>	January 1
<b>Martin Luther King, Jr. Day</b>	Third Monday in January
<b>President's Day</b>	Third Monday in February
<b>Patriots Day</b>	Third Monday in April
<b>Memorial Day</b>	Last Monday in May
<b>Independence Day</b>	July 4
<b>Labor Day</b>	First Monday in September
<b>Columbus Day</b>	Second Monday in October
<b>Veteran's Day</b>	November 11
<b>Thanksgiving Day</b>	Fourth Thursday in November

For those employees who regularly work Monday through Friday, when a holiday falls on a Saturday, it will be observed on the preceding Friday; when a holiday falls on a Sunday, it will be observed on the following Monday. For those employees whose normal work schedule requires them to work Saturday and/or Sunday (either on a regular or periodic basis), holidays that fall on a weekend will be observed on their actual date.

*Oct. 17, 2011 Article 3*

## **2. Overtime**

When an employee, eligible for overtime, is required to work on an observed holiday, he/she will be paid for the holiday and for the actual hours worked on that day.

## **3. Holiday During Vacation**

When one of the eleven (11) paid holiday's falls within an employee's vacation period, an extra vacation day will be credited to the employee's vacation allowance. The extra day may be taken with the vacation or at a later date in the vacation year, subject to prior approval of the department head.

## **4. Holidays**

All employees shall receive compensation on a holiday for hours normally scheduled on that day had the day not been a holiday. In order for an employee to receive holiday pay, the employee must have worked or taken an authorized personal, sick, vacation, compassionate, military or jury duty leave day the regularly scheduled days immediately preceding and following the holiday.

*A33 Oct 20, 1997*

## **N- VACATIONS**

### **1. Vacation Year**

The vacation year is the fiscal year for the Town of West Boylston from July 1 through June 30.

### **2. Vacation Preference Priority**

When compatible with efficient operations, vacation preference priority is normally given to the employees in descending order of their job grades and classes and according to length of service among those on the same job grade or class.

### **3. Vacation Allowances**

As indicated below, vacations will be credited on the first day of the town's fiscal year. Employees who will earn an additional week's vacation in the then current year may be granted this additional week's vacation before their anniversary date, but shall not be paid for this time until after the aforesaid anniversary date.

<b>Length of Service</b>	<b>Days Allowed</b>
6 months but less than 1 year	5
1 through 4 years	10
5 through 9 years	15
10 through 19 years	20
20 years or more	25

Only employees who have completed fifteen (15) years of continuous service with the town as of June 30, 1997 shall be entitled to twenty-five (25) days of vacation annually. *A27 Oct 20, 1997, A12 Nov 9, 1998*

#### **4. Carryover**

The department head may approve the request of an employee to defer one (1) week vacation; or work demands may require a department head to request an employee to defer one (1) week vacation. Any deferred vacation time must be taken within one (1) year of the deferral.

#### **5. Eligibility**

Eligibility for vacation pay is based on the following rules:

- a) an employee terminating before completing six (6) months of service will receive no pay;
- b) an employee on leave of absence without pay will not accrue vacation credits;
- c) an employee on leave of absence for sickness or injury will not accrue vacation benefits.

#### **6. Part-time Employees**

Part-time employees will receive pro rata vacation time (based on the last six (6) months of service) according to the vacation schedule above.

#### **7. Vacation Pay**

The Town Accountant may pay employees in advance of their vacation in accordance with the provisions of Chapter 44, Section 65 MGL accepted by Town Meeting on June 10, 1974.

#### **8. Vacation Scheduling**

All vacation time shall be taken in five (5) day workweek increments, except that with the department head approval, an employee may take vacation days in increments less than workweek increments. Vacation leave shall be granted by the department head provided there is adequate staffing within the department to efficiently meet the needs of the public and manage the workload and responsibilities of the department. *A28 Oct 20, 1997*

#### **9. Vacation Buyback**

Employees may buy back up to one (1) week of vacation at the end of the fiscal year at the then current rate of compensation for the employee, and the town shall pay the buy back for vacation earned in the preceding fiscal year on or before the first payroll in the month of August.

### **0- INSURANCES**

#### **1. Health Insurance**

Full-time and part-time employees may enroll in one of the town's group health plans upon commencement of employment or during the annual open enrollment period. The premium payment for either family or individual membership will be shared by the town and by the employee based on the town's contribution rate in effect at the time.

#### **2. Life Insurance**

Full-time and part-time employees are eligible for term life insurance and accidental death insurance. The premium payment will be shared by the town and by the employee.

## **P- PERSONAL DAYS**

Each full-time employee may receive three paid days off each year. Each part-time employee may receive two paid days off each year for the purpose of conducting personal business. A day for part-time employees shall be the regularly scheduled hours of the workday taken off.

Department heads should be notified at least three days before the intended absence except in the case of emergency. Time off is generally authorized in whole days but may be taken in half-day increments by full-time employees only at the department head's discretion. Part-time employees shall only take authorized personal days in whole day increments.

Personal days are not cumulative and may not be carried from one year to another. *A29 May 17, 1999, A21 Nov-13, 2000*

## **Q- SICKLEAVE**

Sick leave shall be used for only personal illness or injury, and to provide care for an immediate family member, defined as husband, wife, son daughter, father, mother, father-in-law, mother-in-law, brother, sister, grandchild, or any person living with the employee with a serious health condition, or with an acute medical need.

Full-time and part-time employees shall accrue sick leave at the rate of one full day (fulltime and pro-rata for part-time) for each complete calendar month of service for a total of twelve (12) sick leave days per year. Any employee hired before March 19, 1988 shall be entitled to sick leave of one and one-half days per month for eighteen (18) sick days each year.

No sick leave will be credited for any month during which the employee is absent from work for one or more days, except for personal illness, when prior approval for such absence had not been given by the department head. Sick leave may be accumulated to the maximum of one hundred eighty (180) days.

If a paid holiday falls within a period of illness, the holiday will be considered an illness day and subtracted from accrued sick leave time.

Employees who will be absent from work due to illness or injury must notify the department head before work commences on the first day of absence or as soon as possible thereafter.

Employees should also notify the department head of their expected date of return to work. Employees absent for five or more consecutive working days because of illness or injury must furnish upon their return to work a physician's statement substantiating an illness or injury absence of more than five consecutive working days.

*A29 Oct 20, 1997, A27 May 17, 1999*

## **R- FAMILY AND MEDICALLEAVE**

As provided by the 1993 Family and Medical Leave Act (FMLA), all eligible employees shall be entitled to take up to twelve (12) weeks of unpaid, job-protected leave during any twelve (12) month period for specified family and medical reasons.

### **1. Covered Family and Medical Reasons:**

An eligible employee shall be entitled to twelve (12) weeks of unpaid leave during a twelve (12) month period for one or more of the following reasons:

- a) the birth or placement of a child for adoption or foster care;

- b) to care for an immediate family member, defined as husband, wife, son, daughter, father, mother, father-in-law, mother-in-law, brother, sister, grandchild, or any other person living with the employee, with a serious health condition; *A30 Oct 20, 1997*
- c) to take medical leave when the employee is unable to work because of a serious health condition: or
- d) a serious health condition, which shall be defined as an illness of a serious and long-term nature resulting in recurring or lengthy absences. Treatment of such an illness would occur in an inpatient situation at a hospital, hospice or residential medical care facility, or would consist of continuing care provided by a licensed health care provider.

An employee may take leave if a serious health condition makes the employee unable to perform the functions of his/her position. Employees with questions about whether specific illnesses are covered under this policy or under the town's sick leave policy are encourage to meet with the appropriate department head.

## **2. Employee Eligibility:**

An employee shall be entitled to family leave when he/she meets the following criteria:

- a) the employee has worked for at least twelve (12) months for the town. The twelve months need not have been consecutive. If the employee was on the payroll for part of a week, the town will count the entire week. The town considers fifty-two (52) weeks to be equal to twelve (12) months;
- b) the employee has to have worked for the employer for at least 1,250 hours over the twelve (12) months before the leave would begin;
- c) The employee must work in an office or worksite which employs fifty (50) or more employees, or there must be fifty (50) employees within seventy-five (75) miles of the office or worksite. In this town, all employees work within a seventy-five (75) mile radius of the municipal office building;
- d) When both spouses are employed by the town, they are jointly entitled to a combined total of twelve (12) workweeks of family leave for the birth or placement of a child for adoption or foster care, and to care for a parent who has a serious health condition.

## **3. Calculation Leave**

Eligible employees can use up to twelve (12) weeks of leave during any twelve (12) month period. The town will use a rolling twelve (12) month period measured backward from the date any employee uses any FMLA leave. It will not be measured backward before August 5,1993.

Each time an employee uses leave, the town computes the amount of leave the employee has taken under the policy, subtracts it from the twelve (12) weeks, and the balance remaining is the amount the employee is entitled to take at that time. For example, if an employee has taken five (5) weeks of leave in the past twelve (12) months, he or she could take an additional seven (7) weeks under this policy.

## **4. Maintenance of Benefits**

An employee shall be entitled to maintain group health plan coverage on the same basis as if he/she had continued to work for the town. To maintain uninterrupted coverage, the employee will have to continue to pay his/her share of insurance premium payments. This payment shall be made either in person or by mail to



the Treasurer/Tax Collector office by the first day of each month. If the employee's payment is more than thirty (30) days overdue, then the coverage will be dropped by the town.

If an employee informs the town that he/she does not intend to return to work at the end of the leave period, the town's obligation to provide health benefits ends. If the employee chooses not to return to work for reasons other than a continued serious health condition, the town will require the employee to reimburse the town the amount contributed towards the employee's health insurance during the leave period.

If the employee contributes to a life insurance or disability plan, the town will continue making payroll deductions while the employee is on paid leave. While the employee is on unpaid leave, the town will request that the employee continue to make those payments, along with the health care payments. If the employee does not continue these payments, the town will recover the payments at the end of the leave period in a manner consistent with the law.

Certain types of earned benefits, such as seniority, may not be accrued during this leave period. Other benefits such as the accrual of seniority will not continue during leave. However, the use of family or medical leave will not be considered a break in service when vesting or eligibility to participate in benefit programs is being determined.

## **5. Job Restoration**

An employee who utilizes family or medical leave under this policy will be restored to the same job or a job with equivalent status, pay, benefits and other employment terms. The town may choose to exempt certain highly compensated "key" employees from this job restoration requirement and not return them to the same or similar position at the completion of FMLA leave. Employees who may be exempted will be informed of this status when they request leave. If the town deems it necessary to deny job restoration for a "key" employee on FMLA leave, the town will inform the employee of its intention and will offer the employee the opportunity to return to work immediately.

## **6. Uses of Paid and Unpaid Leave:**

If an employee has accrued paid leave of less than twelve (12) weeks, the employee will use paid leave first and take the remainder of the twelve weeks as unpaid leave.

If an employee uses leave because of his/her own serious medical condition, or the serious health condition of an immediate family member, the employee will first use all paid vacation, personal or sick leave, and then will be eligible for unpaid leave. An employee using leave for the birth of a child will use paid sick leave for physical recovery after childbirth. The amount of sick leave utilized after this point will be decided on a case-by-case basis. The employee then may use all paid vacation, personal or family leave, and then will be eligible for unpaid leave for the remainder of the twelve (12) weeks. The employee using leave for the adoption or foster care of a child will use all paid vacation, personal or family leave first, and then will be eligible for unpaid leave for the remainder of the twelve (12) weeks.

## **7. Intermittent Leave and Reduced Work Schedules:**

In certain cases, intermittent use of the twelve weeks of family or medical leave or a part of a reduced workweek may be allowed by the town. Employees wishing to use leave intermittently or to utilize a reduced work week for birth or adoption purposes will need to discuss and gain approval for such use from the employee's department head and the Town Administrator or appropriate elected board, commission or committee.

Employees may also use family or medical leave intermittently or as part of a reduced workweek whenever it is medically necessary. If the need to use leave is foreseeable and based on preplanned and prescheduled medical treatment, then the employee is responsible to schedule the treatment in a manner that does not unduly disrupt the town's operations. This provision is subject to the approval of the health care provider.

In some cases, the town may temporarily transfer an employee using intermittent or a reduced workweek to a different job with equivalent pay and benefits if another position would better accommodate the intermittent or reduced work schedule.

#### **8. Procedure for Requesting Leave**

All employees requesting leave under this policy must complete the Family/Medical Leave form available from the department head or the office of the Town Administrator. When an employee plans to take leave under this policy, the employee must give the town thirty (30) days notice. If it is not possible to give thirty days notice, the employee must give as much notice as is possible. An employee undergoing planned medical treatment is required to make a reasonable effort to schedule treatment to minimize disruptions to the town's operations.

While on leave, employees are requested to report periodically to the employee's department head regarding the status of the medical condition, and their intent to return to work.

#### **9. Procedure for Notice and Certification of Serious Health Condition:**

On occasion, the town may require the employee to provide notice of the need to utilize leave (where it is possible to know beforehand) and/or may require the employee to provide certification of an employee's immediate family member's serious health condition by a qualified health care provider. The employee should try to respond to such a request within ten (10) calendar days of the request, or provide a reasonable explanation for the delay.

Qualified healthcare providers include doctors of medicine or osteopathy, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, nurse practitioners and nurse-midwives authorized to practice under state law and performing within the scope of their practice under state law, and Christian Science practitioners listed with the First Church of Christ Scientists in Boston, Massachusetts.

When seeking certification of a serious medical condition, an employee should ensure that the certification contains the following:

- a) date when the condition began; expected duration, diagnosis and a brief statement of treatment;
- b) if an employee is seeking medical leave for his/her own medical condition, certification should also include a statement that the employee is unable to perform the essential functions of the employee's position;
- c) For a seriously ill family member, the certification should include a statement that the patient requires assistance and that the employee's presence would be beneficial or desirable.

If deemed necessary, the town may ask for a second opinion. The town will pay for the employee to get a certification from a second qualified healthcare provider, which the town will select. If there is a conflict between the original certification and the second opinion, the town may require the opinion of a third qualified healthcare provider. The town and the employee will jointly select the third doctor, and the town will pay for the opinion. The third opinion will be considered final.

### **S- COMPASSIONATE LEAVE**

Up to four (4) days of absence with pay may be granted to full-time and part-time employees by the department head when death occurs in his or her "immediate family". Immediate family is defined as husband, wife, son, daughter, father, mother, father-in-law, mother-in-law, brother, sister, grandchild or any other person living with the employee. *A9 Oct 18, 2010*

For other members of the family (grandparents, aunts, uncles) one day without loss of pay may be granted by the department head for the purpose of attending the funeral or memorial service.

### **T- JURY DUTY**

Any regular full-time or part-time employee who serves on jury duty shall be paid for loss of any earnings occasioned thereby as follows: the town shall be obligated to compensate the employee for the first three (3) days of jury duty the regular wages of the employee. Based upon the normal regular hours of the employee's workday, and thereafter the difference between the regular wages of the employee, based upon the normal regular hours of the employee's workday, and the state jury duty compensation for the fourth day of jury duty and thereafter, provided that the town's maximum period of obligation is no more than six (6) weeks or thirty (30) working days. *A31 Oct 20, 1997*

### **U- MILITARY LEAVE**

A full-time employee in the Armed Forces Reserve or the National Guard, who shall be required to and does attend annual duty for training, shall be paid the difference between compensation received for such active duty and his regular compensation from the town, provided that such payment by the town shall be limited to a period not to exceed two (2) weeks in any twelve (12) month period, and shall not include payment to members of the National Guard who may be mobilized during any emergency in the Commonwealth. In all cases, the military earnings statement must be presented to the supervisor in order to receive additional compensation for which the employee may be eligible.

### **V- PROBATION PERIOD**

All employees, except exempt department heads, placed in new full-time and part-time positions must serve a period of probation. Exempt management, including department heads not covered by employment contract and confidential employees, including the Administrative Assistant to the Chief of Police and the Municipal Assistant, who are "at will" employees, serve no probation period as they are continually "on probation". Police officers and firefighters serve a probation period of one year; all other employees serve a six (6) month or 180 day probation period.

The probation period is designed to give the employee time to learn the position and to give the supervisor time to evaluate the employee's potential and performance. During the established probation period, the town reserves the right to terminate the probationary employee's service on the basis of unsatisfactory performance or on the basis of other reasons deemed sufficient by the town, provided, however, the Town Administrator or other appropriate elected board, commission or committee shall not discharge or otherwise discipline an employee for protected union activity.

If an employee is unable to perform the work, the person must be terminated as early as possible. Early termination saves the town a time and dollar investment and saves the employee possible embarrassment and frustration. Rejected probationers shall be notified of such action in writing by the Town Administrator or appropriate elected board, commission or committee, upon written recommendation of the department head at any time during the probation period, and a copy of said notification shall be retained in the personnel files.

At the end of the probation period, the employee is formally evaluated and provided written documentation of progress by the Town Administrator, or appropriate elected board, commission or committee, through the appropriate department head. It is expected that informal evaluations will be conducted during the course of the probation period to assess performance and to advise employees of expectations regarding performance. These evaluations provide the necessary justification for retention of the person as a regular employee.

Under unusual circumstances, the probation period may be extended. This is only after an evaluation of the situation, the employee's abilities, and demonstrated potential. Probation extension is done only upon recommendation of the department head and concurrence by the Town Administrator, or appropriate elected board, commission or committee.

If the employee successfully completes the probation period, the employee shall be informed in writing that he/she is now a regular employee. This will be accomplished by the Town Administrator or appropriate elected board, commission, or committee through the department head.

If an individual has been transferred or promoted, he or she remains eligible for all fringe benefits included with the previous position during the probation period for the transfer or promotion. If the position to which an employee has been transferred or promoted carries benefits different from those of the previous position, the person becomes eligible for the benefits of the new position upon the satisfactory completion of the probation retroactive to the date of the transfer or promotion.

If a transferred or promoted employee fails to achieve satisfactory performance in the new position, he or she will be given priority for the first position opening similar to the one previously held if the employee's performance in the previous position was satisfactory. If an employee had not performed satisfactorily in the previous position, termination from town employment will be considered.

If an emergency arises during an employee's probation period which requires a leave of absence, such time off, if granted, will not be considered as time worked. *A28 May 17, 1999*

#### **W- PERFORMANCE EVALUATION**

The functions of the employee performance evaluation are to provide introductory employment employees with timely reports of their progress and allow for correction of deficiencies; to provide all employees with positive recognition of strengths and special abilities and an opportunity to improve deficiencies; to provide an ongoing performance record which may become part of documentation used in making personnel actions; to provide employees with an opportunity to discuss ways and means for improvement and to cause current job descriptions to be formulated and/or maintained.

Employees on introductory or probationary employment status shall be evaluated at the midpoint of such status, usually after ninety (90) days of employment and two weeks prior to the end of the introductory employment period at which time the employee shall be advised of his/her status (regular or terminated).

All regular full-time, part-time and fractional employees shall be evaluated at least once a year. For employees not on shift schedules, they shall be evaluated during the month of their anniversary date. Department heads and supervisors may choose to evaluate employees more often. It shall be the responsibility of each department head to maintain a list of employee anniversary dates and to evaluate his/her employees within the time frame given.

The employee and the department head each shall complete an Employee Performance Evaluation Form approved by the Town Administrator or appropriate elected board, commission or committee. During this preparation, the employee and the supervisor may discuss various aspects of completion of the form, but this should not be in lieu of having each person complete a separate form. This part of the process should require only a few days.

When the employee and supervisor have each completed their form, they shall arrange for a conference. During the conference, the employee and supervisor discuss each portion of the form and the relationship between the employee's performance of the job and the description of the job itself. The employee and the supervisor shall strive to reach a consensus on each section and shall jointly complete the conference report on a third evaluation form. If there is a disagreement, or consensus is not achieved, the supervisor's comments shall take priority and the employee may, if he/she wishes, use the "Employee's Remarks" section to respond. The supervisor signs the completed form and sends it to the appointing authority (if other than the supervisor completing the evaluation) for review, comment and signature. It is then returned to the supervisor who allows the employee to read the completed form and sign it. The signed employee performance evaluation conference report is placed in the personnel file and will remain filed for the length of time required by law or policy.

#### **X- PERFORMANCE IMPROVEMENT**

In instances where job performance or conduct (e.g. excessive tardiness or absenteeism, insubordination, etc.) call for corrective action, the following steps should be taken:

1. properly define all problems;
2. eliminate any misunderstandings; and
3. provide the employee with the maximum opportunity to improve conduct or performance and protect the town's interest if it is subsequently accused of being unfair or violating federal and/or state regulations.

The normal sequence of action outlined in the steps below may be altered depending on circumstance.

##### **STEP 1: ORAL DISCUSSION**

The department head shall meet with the employee whose performance or conduct is unsatisfactory and outlines the problem(s). The employee should be encouraged to contribute in identifying the cause(s) of the problem(s). The objective of the discussion should be to help the employee bring his/her performance or conduct to a satisfactory level. During this meeting emphasis should be placed on informality, open-mindedness, and the unemotional exchange of factual information. The department head should make an informal record of all points discussed and follow up on any mitigating evidence provided by the employee.

If at the end of the meeting, it is established that the employee is wholly or partly responsible for the defined problem(s), the employee should be informed that attainment of the agreed upon improvements within the specified time table will eliminate the need for any further action.

##### **STEP 2: WRITTEN WARNING**

If the oral discussion in Step 1 fails to correct the timetable agreed upon, a more formal meeting should be held between the department head and the employee. Prior to this meeting, the department head shall prepare a written statement covering all problems and other areas of dissatisfaction including dates and times where appropriate. This document should outline what was discussed during the first meeting and any additional areas where improvements are needed.

The memorandum should also include dates by which improvements are expected. During the Step 2 meeting, the department head should indicate why the meeting is necessary.

The department head and the employee should review the written statement listing areas of inadequate performance or poor conduct, point by point. Before the Step 2 meeting is concluded, the disciplinary action that will be taken must be outlined. Formal probation may start with this meeting. At the conclusion of the Step 2 meeting, the employee should be asked to sign the memorandum as evidence of having seen and discussed its contents. If the employee refuses to sign the memorandum, the department head should make note of the refusal on all copies.

One copy of the memorandum should be given to the employee, one copy to the Town Administrator, or appropriate elected board, commission or committee, one copy to the Personnel Board, and one to be retained by the department head.

Again, it is the town's objective to work with all employees having difficulties in order to resolve problems before they become unmanageable and to retain the individuals as productive employees.

### **STEP 3: PROBATION**

If the employee was not placed on probation during the Step 2 meeting and problems persist, the employee should be notified of being placed on formal probation when improvements have not been achieved. The length of the probation period is determined by the department head and depends on the complexity of the problems involved. Notice of being placed on probation must be in writing and the employee should be asked to sign the notification of probation.

Refusal to sign shall be noted by the department head. The employee placed on probation should be notified that continuation of poor performance or poor conduct could result in termination at any time during the probation period.

### **STEP 4: TERMINATION**

An employee on probation due to poor job performance who does not show improvement during the probation period should be terminated. Employees on probation for reason other than job performance (conduct or insubordination) should be considered for termination if improvements are not observed.

### **Y- TERMINATION**

The town acknowledges that it is necessary to establish procedures for employee termination with the town by service or disability retirement, resignation, discharge, probation period termination, or layoff. The procedures are designated to provide the least disruption and inconvenience to the employees of the town.

**1. SERVICE RETIREMENT** is voluntary termination after having satisfied the age and length of employment requirements of the applicable County or State Teachers Retirement System procedures for applying retirement benefits.

**2. DISABILITY RETIREMENT** is voluntary termination necessitated by an injury or illness which renders the employee incapable of performing his/her usual job. The termination is preceded by a memorandum/letter by the employee to his/her supervisor advising of the disability ruling, date of termination, supporting documentation, and a ruling by the appropriate board verifying the disability and approving the retirement.

**3. EMPLOYEE-INITIATE D RESIGNATION** is a voluntary termination for any reason other than formal retirement. An employee wanting to leave the town in good standing shall provide a written resignation to his/her immediate supervisor at least fourteen (14) calendar days prior to the effective date of resignation. The resignation letter should include the reason for leaving as well as the proposed effective date. Two weeks notice is understood to mean that the resigning employee will be available for work during this time so as to aid in the training of a replacement.

Exceptions to the time limit requirement may be granted by the Town Administrator or appropriate elected board, commission or committee.

**4. SUPERVISOR-INITIATE D RESIGNATION** is termination requested by the supervisor which permits the employee to resign in lieu of being discharged. A termination of this type occurs only after the supervisor's consultation with the Town Administrator, or appropriate elected board, commission or committee. An evaluation of the circumstances is conducted, including reasons for the request, supporting documentation and alternatives.

**5. PROBATIONARY TERMINATION** is discharge of an employee during the established probationary period (introductory employment) period, usually for the inability to meet position/department requirements. A probationary termination occurs only after the supervisor's consultation with the Town Administrator, or appropriate elected board, commission or committee.

**6. . LAYOFF TERMINATION** of an employee by the town for the lack of work, lack of funds, or other changes that have taken place. In layoff, recall and filling regular job vacancies, the town shall give equal consideration to an employee's ability and performance of the duties required in the job and consideration to an employee's length of service with the town in the classification. In applying this provision, where qualifications, experience and performance are equal, seniority shall govern.

Every effort will be made for transfers to other departments when a position is open for which the employee qualifies.

The town shall provide an employee with at least two (2) weeks advance notification prior to layoff, except in case of emergency.

An employee on layoff must keep the town informed of the address and telephone number where he/she can be contacted.

If the town is unable to contact the employee within seven (7) calendar days, the town's obligation to recall the employee shall cease. The town shall have no obligation to recall an employee after he or she has been on continuous layoff for a period which exceeds one year. Should an employee not return to work when recalled, the town shall have no further obligation to recall him/her.

**7. . DISCIPLINARY TERM INATION** is the immediate removal of an employee from the job, pending a hearing for discharge, which may be warranted in instances involving serious insubordination, theft, serious illegal or destructive acts while on the job, or other substantial reasons deemed appropriate by the Town Administrator, or appropriate elected board, commission or committee. An employee also may be discharged after repeated offenses of a less serious nature if the offenses have been documented by the supervisor and appropriate behavioral changes have not resulted from previous progressive disciplinary action. *A30 May 17, 1999*

**8. POOR PERFORMANCE TERMINATION** is termination because of failure to meet reasonable performance standards, after the procedures delineated in Section X. Performance Improvement have been followed.

## **9. . EXIT INTERVIEWS**

### **PURPOSE:**

To ensure that existing employees are informed of their benefits and rights and to maintain accurate records on reason for employee terminations.

### **POLICY:**

It is the policy of the Town of West Boylston to ensure that any employee whose employment is being terminated (voluntarily or involuntary) receives an exit interview. The exit interview shall be held at the time of the employee's discharge. The interview will be conducted by the Town Administrator or his/her designee. The objectives of the exit interview include the following:

- To discuss the reasons for an employee's resignation;
- To discover any grievances the employee may have about the department in order that corrective action(s) may be undertaken, as appropriate;
- To discover any misunderstandings the employee may have had about his/her job, or with his/her supervisor(s) in order that corrective action(s) may be undertaken, as appropriate;
- To review administrative details with the employee such as benefits continuation rights and conversion privileges, if any, final pay, re-employment policy, and employment compensation; and
- To arrange for the return of any Town of West Boylston property which has not already been returned to the department supervisor.

### **PROCEDURE:**

1. When an employee announces his/her intention to resign, the supervisor/department head should an exit interview for the employee with the Town Administrator or his/her designee as soon as possible.
2. When a decision has been made to terminate an employee, the employee should meet with the Town Administrator or his/her designee for an exit interview as soon as possible, as appropriate.
3. During the exit interview, the Town Administrator or his/her designee will seek to meet all objectives listed in the Exit Interview Policy Statement.
4. The departing employee will complete the Exit Interview Form as thoroughly as possible.
5. Any information obtained during the exit interview may be disclosed to (and/or discussed with) the supervisor, the Department Head, the Town Administrator and the Board of Selectmen in order to investigate any allegation(s) made and/or to be made aware of emerging problem(s). The Department Head, the Town Administrator may make recommendations to the Board of Selectmen for corrective action based on the information contained in the exit interview. A7 Oct 19, 2009

## **Z- GRIEVANCE PROCEDURE**

Any employee who has been aggrieved by the application of any of the rules and regulations contained within this bylaw may make such grievance known through the process delineated herein. A grievance shall be limited to questions of interpretation and application of these rules and regulations and must be started within seven (7) calendar days of the occurrence of the alleged violation. The aggrieved employee shall present the grievance in writing to the department head for resolution. If it is not resolved at that level within seven (7) calendar days, the aggrieved employee shall present the grievance to the Town Administrator or appropriate elected board, commission or committee, in writing, within seven (7) calendar days of the



department head's action on the grievance. The Town Administrator or appropriate elected board, commission or committee shall have fourteen (14) calendar days to process the grievance.

If the aggrieved employee is not satisfied with the actions of the Town Administrator or elected board, commission or committee, the aggrieved employee may present a grievance, in writing, to the Personnel Board, and shall send copies of same to the appropriate department head, Town Administrator and appropriate elected board, commission and committee within seven (7) calendar days for final action. The written notice shall include the following:

- a) statement of the grievance and relevant facts;
- b) remedy sought; and
- c) reasons for dissatisfaction with the department head's solution.

The Personnel Board shall consider the grievance at a public meeting. Final action shall be taken by the Personnel Board within fourteen (14) days of receipt of the grievance by the Personnel Board.

## **AA- CLASSIFICATION AND COMPENSATION PLAN**

### **1) Classification Plan**

The official classification plan of the town is as follows:

<b>Non-Exempt Employees -Wage Earning Employees</b>	
<b>Grade 1</b>	Casual Labor Clerk/Typist Custodian/Maintenance Worker Dining Room Manager Minutes Clerk <i>A24 May 21, 2001</i> Recreation Worker <i>A23 May 16, 2016</i>
<b>Grade 2</b>	Animal Control Officer Dog officer Treas./Tax Collector Clerk Van Driver WBPA-TV Production Assistant <i>A13 Oct.17, 2016</i>
<b>Grade 3</b>	Assistant Children's Librarian Assistant to the Program Director COA Assistant Town Clerk Library Assistant Secretary Sec./Bookkeeper <i>A3 Nov, 13, 2000</i> WBPA-TV Access Coordinator <i>A13 Oct. 17, 2016</i>
<b>Grade 4</b>	Administrative Assistant to the Chief of Police Administrative Sec. for the Streets and Parks Administrative Assistant to the Town Accountant <i>A2 Oct 21, 2013</i> Administrative Assessor Administrative/Inspector for the Board of Health <i>A10 Oct. 18, 2010</i>

	Assistant Tax Collector Assistant Treas. Dispatcher
<b>Grade 5</b>	Assistant Town Accountant Municipal Assistant <i>A16 Oct 18, 1999; A6 Nov 13, 2000</i>
<b>Exempt Employees- Salaried Employees</b>	
<b>Grade 6</b>	Council on Aging (COA) Director
<b>Grade 7</b>	Assistant Library Director Children's Librarian Town Clerk
<b>Grade 8</b>	Inspector of Buildings
<b>Grade 9</b>	Assessor Principal Town Accountant
<b>Grade 10</b>	Library Director Treas./Tax Collector

*Grade 11 deleted A2 Oct 17, 2011 Semi-Annual Town Meeting, Cemetery Superintendent removed from Grade 6 – May 2019*

<b>Non-Exempt Emergency Fire and Medical Employees</b>	
<b>Grade 1 F</b>	Call Support Employees
<b>Grade 2 F</b>	Call, full-time, part-time and per diem firefighters Call, full-time, part-time and per diem EMT's (basic and Intermediate)
<b>Grade 3 F</b>	Full-time, part-time and per diem Firefighter/Emergency Medical technician (EMT) Full-time, part-time and per diem Firefighter/Emergency Medical Technician (EMT) Clerk
<b>Grade 4 F</b>	Call, full-time, part-time and per diem Firefighter/Paramedic (PAR) Call, full-time, part-time and per diem Firefighter/Paramedic (PAR) Clerk

*A5 May 15, 2017*

Per Diem positions are used to fill open shifts within the fire department. Per Diem employees are paid by the hour with no benefits. Officers-in-Charge who are on call for weekends are paid three hours for being available

to respond to calls, and paramedics and EMT's who sign up to be "on call" for open shifts are paid 1 hour for every two hours on call. *A36 May 21, 2001, A12 May 20, 2002, A12, 13, 20 May 19, 2003, A2 Oct 17, 2011*

## 2.Compensation Plan

*A30 May 16, 2011, A2 February 28, 2018, May 20, 2019*

The official compensation plan of the town is as follows:

GRADE		Step 1	Step 2	Step 3	Step 4	Step 5
1		\$12.70	\$13.97	\$15.21	\$16.54	\$17.78
2		\$13.93	\$15.34	\$16.72	\$18.09	\$18.62
3		\$15.17	\$16.66	\$18.21	\$19.74	\$21.28
4		\$16.39	\$18.07	\$19.69	\$21.35	\$23.01
5		\$17.68	\$19.46	\$21.23	\$23.74	\$24.75
GRADE		Step 1	Step 2	Step 3	Step 4	Step 5
6	COA Director	\$ 36,902.20	\$ 40,603.93	\$ 44,276.44	\$ 49,509.94	\$ 51,687.33
7	Town Clerk	\$ 44,135.51	\$ 48,476.54	\$ 52,951.78	\$ 57,353.39	\$ 61,763.19
	Children's Librarian	\$ 36,885.44	\$ 40,458.11	\$ 44,190.18	\$ 47,870.27	\$ 51,547.83
	Assitant Library Director	\$ 36,885.44	\$ 40,458.11	\$ 44,190.18	\$ 47,870.27	\$ 51,547.83
8	Building Inspector	\$ 27,925.29	\$ 30,727.83	\$ 33,508.80	\$ 36,316.44	\$ 39,093.61
9	Principal Assessor	\$ 44,904.13	\$ 49,401.17	\$ 53,895.13	\$ 58,039.34	\$ 62,859.45
	Town Accountant	\$ 44,904.13	\$ 49,401.17	\$ 53,895.13	\$ 58,039.34	\$ 62,859.45
10	Library Director	\$ 52,326.46	\$ 57,565.05	\$ 62,797.31	\$ 68,034.66	\$ 73,271.99
	Treasurer/Tax Collector	\$ 52,326.46	\$ 57,565.05	\$ 62,797.31	\$ 68,034.66	\$ 73,271.99
Non-exempt Emergency Fire and Medical Services Employees						
GRADE		Step 1	Step 2	Step 3	Step 4	Step 5
1F		\$ 10.17	\$ 11.17	\$ 12.22	\$ 13.22	\$ 14.27
2F		\$ 14.68	\$ 16.13	\$ 17.63	\$ 19.08	\$ 20.56
3F		\$ 16.18	\$ 17.67	\$ 19.14	\$ 20.61	\$ 22.26
4F		\$ 20.22	\$ 22.09	\$ 23.93	\$ 25.80	\$ 27.80

*A6 May 15, 2017, A4 May 20, 2019*

The non-exempt emergency fire and medical services employee wage levels do not include annual stipends for department officers, and training and skill certification required by the Fire Chief for the delivery of firefighting, emergency medical rescue, inspection and administrative services.

The Fire Chief establishes requirements for annual stipends, including levels of compensation, as part of the rules and regulations of the West Boylston Fire Department. Annual stipends range from \$250.00 to \$2,000.00

The Non- Exempt Emergency Fire and Medical Services Employees Classification Plan and Compensation Plan shall become effective on the following dates: January 1, 2000 for Grades F3 and F4, and July 1, 2000 for Grades F1 and F2.

### **3. Amendment of the Plans**

The classification and compensation plans have been established pursuant to the authority contained in Massachusetts General Laws, Chapter 41, Section 108C and may be amended in the manner provided in this statute through vote of town meeting. Annually the Board of Selectmen shall cause the preparation of necessary amendments to the classification and compensation plans for voter consideration at the Annual Town Meeting. No amendment shall become effective until the Town meeting appropriates funds to fund the same. *A16 Oct 27, 2003*

### **BB- STARTING WAGE OR SALARY**

All employees covered under this bylaw shall be hired at Step One of the appropriate Pay Grade for the position to be filled, provided, however that the appropriate hiring authority, Town Administrator or appropriate elected board, commission or committee may place a qualified candidate for employment at a higher step of the appropriate Pay Grade, subject to the following conditions:

- a) there are sufficient funds appropriated for the wage or salary;
- b) that the starting wage or salary is no higher than Step Three, the midpoint of the appropriate pay grade.

### **CC- STEP INCREASES**

All permanent, full-time, part-time, and fractional-time employees who are not department heads shall receive a step increase after the completion of two (2) years of service and every two (2) years thereafter, provided the employees are in good standing and in active service of the town. No step or longevity increases shall be given when an employee reaches Step Five on the employee's respective Pay Grade. Seasonal employees shall not be entitled to step increases, but are eligible for wage increases or cost-of-living increases approved by Town Meeting. *A32 Oct 20, 1997*

Department heads shall receive a step increase after completion of two (2) years of service and every two (2) years thereafter, provided the department heads are in good standing and in the active service of the town, and subject to a satisfactory performance evaluation. On or before July 1st of each calendar year, the Town Administrator or appropriate elected board, commission or committee, based upon department work priorities, goals and objectives, shall meet with the appropriate department heads to establish department performance goals and supervisory goals and methods of measuring performance for the subsequent fiscal year commencing July 1st.

The Town Administrator or appropriate elected board, commission or committee shall ensure that the annual performance goals and methods of measuring performance are formalized in writing on appropriate forms approved by the Personnel Board and that the department head understands the goals and methods of measuring performance. The Town Administrator or appropriate elected board, commission or committee shall review annual performance goals and performance measurements intermittently during the fiscal year with the department head and more formally on or before January 15th and shall review annual performance on or before June 30th. The annual performance evaluation shall be formalized in writing on appropriate forms approved by the Personnel Board and shall become a permanent part of the department head's personnel record. No bi-annual step increase shall be granted to a department head should the normal

performance evaluation for the preceding year not be satisfactory. Should a step increase be denied due to unsatisfactory performance, the department head shall be eligible to receive any other wage increases or cost-of-living increases approved by Town Meeting.

As of the appropriate effective dates of the Non-Exempt Emergency Fire and Medical Services Employees Classification and Compensation Plan for each class of department employees (January 1, 2000 for Grades 3F, 4F, and July 1, 2000 for Grades 1F and 2F), all active employees in good standing with the Fire Chief, shall receive a step increase after two (2) years of service and every two (2) years thereafter. *A17 Oct 27, 2002*

#### **DD- PERSONNEL RECORDS**

A personnel record of all town employees, except employees of the Municipal Light Department and the School Department, shall be maintained in conformity with Massachusetts General Laws, Chapter 66 by the Town Administrator. Such records shall contain the vital statistics and other information as prescribed and pertinent to the administration of this bylaw for all persons employed by the town, except as excluded above.

It shall be the duty of each town officer and employee to furnish to the Town Administrator forthwith upon his/her request, all data and documents needed for the completion of this record, all memoranda, personnel records, reports, attendance records for all employees delineating days worked, vacation days, sick leave and all other leaves and/or absences.

#### **EE- SAVINGS CLAUSE**

In the event any section or portion of this bylaw should be held invalid and unenforceable by any court of competent jurisdiction, such decision shall apply only to the specific section or portion thereof of this bylaw specifically specified in the court decision.

#### **FF- JOB SHARING**

Job sharing is an arrangement in which two people share one full-time, permanent position by coordinating responsibilities in the performance of the tasks specified in the position's job description. This policy covers both traditional methods of job sharing:

- 1) Two employees fill one full-time job by dividing the hours of work. Both employees perform the same tasks and share the same responsibilities.
- 2) Two (2) employees divide the responsibilities of one full-time job by performing different tasks combining strengths, specialties and experience.

#### **1. HOURS OF WORK**

- a) Jobs may be divided on a shared day, shared week, or other alternative arrangement agreed upon by the department head. The shares need not be equal.
- b) The department head must approve all work schedules.
- c) Job sharers will make every effort to fill in for each other.
- d) The actual hours of work of the two job sharers must meet the needs of the department and must cover the requirements of the full-time position being shared.

#### **2. SALARY/WAGES**

- a) The combined wages of the Job Sharers shall not exceed the wage of the full-time position being shared.
- b) The method of prorating the wage of the shared position between the two Job Sharers shall be established

by a written agreement between the two employees and the Town.

### **3. BENEFITS**

- a) The combined benefits of the Job Sharers shall not exceed the benefits of one full-time position. This applies to both the cost of benefits and to leave time (vacation, sick-time, etc.)
- b) The method of prorating the benefits of the shared position between the two Job Sharers shall be established by a written agreement between the two employees and the Town.
- c) So long as the total number of shared hours does not exceed a 39-hour work week.

### **4. APPLICATION PROCEDURE**

- a) The department head determines whether a position is eligible for job sharing.
- b) Applicants may apply as a team or individual.
- c) Prior to appointing two job share candidates to a position, they must meet with the department head to establish a written agreement which defines the proration of hours, duties, wages, and benefits.

### **5. PERFORMANCE REVIEWS**

- a) Performance reviews shall be conducted individually.
- b) The employee's performance shall be evaluated based on the job description of the full-time position, the job share agreement, and on the level of communication and cooperation between job sharers.
- c) The job share agreement shall be reviewed annually as part of the performance review. The agreement may be renewed, modified or revoked.

### **6. RESIGNATION AND TERMINATION**

- a) A job share agreement may be terminated by the department head at any time.
- b) Job sharing partners must give at least a thirty-day notice prior to resigning.
- c) If one member of the job sharing team resigns, is terminated or transfers, the remaining employee shall have the option of:
  - 1) assuming the full-time position
  - 2) continuing the job sharing agreement with a new candidate if one can be found
  - 3) resigning *A39 May 20, 2002*

## **ARTICLE XXII- EARTH REMOVAL BY-LAW**

### **SECTION 1- GENERAL**

- 1. On land outside the Aquifer Protection District, the removal of topsoil, borrow, rock, sod, loam, peat, humus, clay, sand, gravel, or other earth shall be done only in accordance with this by-law.
- 2. On land within the Aquifer Protection District, any permitted removal or relocation of topsoil, borrow, rock, sod, loam, peat, humus, clay, sand, gravel, or other earth shall be done in accordance with this by-law.
- 3. In this Earth Removal By-law, the word "earth" refers to all geologic material, including without implied limitation, topsoil, borrow, rock, sod, loam, peat, humus, clay, sand, or gravel. The word "by-law" refers

to this Earth Removal By-law. The word “relocation” refers to the movement of earth which disturbs the natural topography, including without implied limitation, stripping, filling or excavating. A2 *Oct 19, 1997*

## **SECTION 2- EXEMPTIONS**

Notwithstanding the other provisions of this by-law, no permit shall be required for the following activities:

1. The removal of less than 500 cubic yards of earth on any lot within any twelve-month period.
2. Removal of less than an aggregate of 1500 cubic yards of earth on any lot within any twelve month period incident to construction where such removal is explicitly allowed under currently valid building permits and/or Board of Health septic system permits.
3. Removal of earth under agreements governing road construction in an approved subdivision.
4. A valid earth removal permit issued prior to the adoption of this by-law shall be renewed by the Earth Removal Board subject to the following conditions:

### **1. Outside of the Aquifer Protection Zone**

- a) All earth removal done after the adoption of this by-law shall be subject to:
- b) Section 4 of this bylaw: Removal
- c) Section 5 of this by-law, Restoration;
- d) the posting of a performance bond to assure satisfactory performance of the requirements of this by-law;
- e) any requirements or limitations in force under the existing permit.

### **2. Within the Aquifer Protection Zone**

All earth removal done after the adoption of this by-law shall be subject to:

- a) Section 4 of this by-law, Removal;
- b) Section 5 of this by-law, Restoration;
- c) the posting of a performance bond to assure satisfactory performance of the requirements of this by-law;
- d) any requirements or limitations in force under the existing permit.

Persons who have been, without interruption, on any lot removing earth or materials and/or processing, screening, crushing of earth materials prior to the adoption of the Zoning By-laws in February 1946 shall not be required to obtain a permit hereunder. A2 *Oct 19, 1997*

## **SECTION 3- PERMITS**

1. Removal or relocation of earth shall be allowed only under a permit issued by the Earth Removal Board which shall consist of five (5) members appointed annually by the Board of Selectmen.

The Earth Removal Board shall consist of the following:

One member from the Board of Selectmen; One member from the Planning Board; One member from the Conservation Commission; One member from the Board of Water Commissioners; One member from the Board of Health.

2. Application for a permit for the removal or relocation of earth shall be submitted to the Earth Removal Board accompanied by a plan showing all natural and man-made features and boundaries of the lot or lots, including public and private wells, property lines, and names and addresses of all abutters.

Topography of the existing land shall be shown at five-foot (5') contour intervals. All land within one hundred feet (100') of the area from which the above material is to be removed, together with the proposed finish grades and the proposed cover vegetation and trees, shall be included on the plan.

The plan will be prepared by a Registered Land Surveyor or Civil Engineer.

3. Before granting a permit, the Earth Removal Board shall hold a public hearing and give due consideration to the location of the proposed work, to the general character of the neighborhood surrounding such location, to the protection of the water supplies and aquifers, to the general safety of the public on the public ways in the vicinity and to the recommendations of the Conservation Commission, the Planning Board and any other board or agency. At least ten (10) days prior to said hearing the applicant shall notify the abutters by certified mail as to the date, time and place of the public hearing and at the hearing shall provide the Earth Removal Board with proof of such notification. The Earth Removal Board shall cause to be published in a newspaper of general circulation in the Town a notice of said hearing once in each of two successive weeks, the first publication being not less than 14 days before such hearing.
4. Before any work is begun, a performance bond or other collateral in an amount determined by the Earth Removal Board shall be posted to assure satisfactory performance of the requirements of this by-law and of such other conditions as the Board imposes as conditions to the issuance of its permit.
5. Permits are transferable, but only upon written notice of transfer being given to the Earth Removal Board and a new bond satisfactory to the Board having been received by it.
6. The Earth Removal Board may adopt any such forms necessary for the completion of its duties. The Board shall determine and post any permit and/or application fees it deems necessary.
7. Issuance of a permit under this section shall be recorded by the Earth Removal Board.
8. The Earth Removal Board shall not issue a permit for the removal or relocation of topsoil, borrow, rock, sod, loam, peat, humus, clay, sand, gravel or other earth from any lot within the Aquifer Protection Zone as shown on the Town zoning map which is not incident to construction upon that lot under a currently valid building permit or Board of Health septic system permit.
9. The Earth Removal Board shall issue a written decision within 60 days after the submission of the application for a permit for the removal or relocation of earth under this by-law. *A2 Oct 19, 1997*

#### **SECTION 4- REMOVAL**

1. All work shall be conducted in accordance with the permit issued by the Earth Removal Board and in accordance with all other applicable by-laws, ordinances, regulations, and laws.



2. The Earth Removal Board shall specify a base grade below which no excavation shall take place. Finish grade shall not lie below a level than is ten feet (10') above the natural seasonal high groundwater table for the site. Finish grade within the Aquifer Protection Zone shall not lie below a level that is fifteen feet (15') above the natural seasonal high groundwater for the site.
3. The Earth Removal Board from time to time may require that the site be surveyed by a Registered Land Surveyor or Civil Engineer to determine compliance with this by-law. The cost of any such survey shall be borne by the permit holder.
4. Provision shall be made for safe drainage of water and for the prevention of wind or water erosion carrying material onto adjoining properties.
5. Except for good cause shown by the applicant, a fifty foot (50') buffer strip shall be maintained at all boundaries of the lot, and no earth removal or relocation shall occur therein. All natural vegetation shall be retained in this buffer zone.
6. The sight and sound of equipment shall be screened from adjacent premises through the use of natural vegetation, additional plantings, fencing, if necessary.
7. Dust shall be controlled through watering of roads, but oiling for dust control is prohibited. Use of chlorides for dust control shall be prohibited within the Aquifer Protection Zone. *A2 Oct 19, 1997*

#### **SECTION 5- RESTORATION**

Forthwith following the expiration or revocation of a permit, or upon substantial cessation of operations for one year or more, or upon completion of removal or relocation to the extent covered by the performance bond, the entire area shall be restored as follows:

8. All land shall be so graded that no slope exceeds one vertical foot in three horizontal feet.
9. All boulders larger than one-half cubic yard and all tree stumps shall be buried or removed. Within the Aquifer Protection Zone all tree stumps must be removed.
10. The entire area, except exposed ledge rock, shall be covered by no less than six inches (6") of topsoil, and shall be seeded and covered with two inches (2") of hay mulch.
11. The performance bond shall not be released until the vegetation planted has become well established and the drainage of the lot has been demonstrated to be satisfactory. *A2 Oct 19, 1997*

#### **SECTION 6- ADDITIONAL CONDITIONS**

The Earth Removal Board may set conditions, in addition to the above, including but not limited to the duration of the permit, the hours of day during which removal or relocation may take place, and the vegetation to be planted. The Earth Removal Board may by unanimous vote, with a minimum of four members present and voting, where such action is allowable by law in the public interest, and not inconsistent with the purpose and intent of this by-law, waive strict compliance with any requirements of this by-law and its rules and regulations. *A2 Oct 19, 1997*

## **SECTION 7- RENEWAL OR REVOCATION OF PERMIT**

1. No permit shall be issued under the provisions of this by-law to extend for a term of more than one year, but a permit may be renewed without a hearing upon written application by the permit holder.
2. Prior to renewal, the Building Inspector shall inspect the premises to determine whether the applicant for renewal has complied with the provisions of this by-law.
3. Upon receiving a complaint alleging a violation of these regulations, which has been verified by the Building Inspector, the Earth Removal Board shall hold a public hearing in accordance with the procedure outlined in Section 3.3 of these by-laws.
4. The Earth Removal Board, after a public hearing, may revoke or modify the permit for any material violation of the terms of the permit or of this by-law, and upon such revocation the operation shall be forthwith discontinued. *A2 Oct 19, 1997*

## **SECTION 8- BY-LAW CONSTRUCTION**

This by-law shall not interfere with or annul any zoning by-law or other regulation which is more restrictive. Where this by-law is more restrictive, it shall control. *A2 Oct 19, 1997*

# **Article XXIII- Public Hearing AND Notice**

## **SECTION 1- CIRCUMSTANCES REQUIRING A PUBLIC HEARING AND HEARING NOTICE.**

No town department, board, committee, commission, or officer, including the Municipal Light Plant, shall take any action which:

- a) infringes, limits, detracts, alters, or otherwise affects the rights of the citizens of the Town of West Boylston to utilize and enjoy town facilities, buildings or property;
- b) increases, decreases, alters, or modifies any fee schedule for municipal services, use of town facilities and buildings, or municipal licenses and permits in instances where the authority for establishing such fee schedule is vested in a local authority;
- c) increases, decreases, or alters the hours of operation and accessibility to the public of a municipal department, program or service
- d) increases, decreases, or alters the level of a municipal service or program provided to the citizens of West Boylston; and
- e) Promulgates, eliminates, alters, or modifies any local rule or regulation in instances which affects the rights of the citizens of West Boylston to lawfully use and enjoy their private property, and to operate lawful businesses within the Town of West Boylston, and where the authority to promulgate such rules or regulations is vested in a local authority, without first holding a public hearing, notice of such hearing is to be published on the town's website and on local WBPA-TV fourteen (14) calendar days prior to the public hearing. *A22 May 20, 1996, A5 Oct 19, 2009*

## **SECTION 2- NOTICE TO THE PUBLIC OF A CHANGE IN TOWN RULES, REGULATIONS, FEE, SCHEDULES, AND HOURS OF OPERATION**

Prior to the effective date of any change in:

- a) policies, rules and regulations that govern the use of town buildings, facilities, and property;
- b) policies, rules and regulations that increases, decreases, alters or modifies any fee schedule for municipal services, use of town facilities and buildings, or municipal licenses and permits in instances where the authority for establishing such fee schedule is vested in a local authority;
- c) policies, rules and regulations that increases, decreases, alters the hours of operation and accessibility to the public of a municipal department, program or service.
- d) Policies, rules and regulations that increases, decreases, or alters the level of a municipal service or program provided to the citizens of West Boylston.
- e) Policies, rules and regulations that promulgates, eliminates, alters, or modifies any local rule or regulation in instances which affects the rights of the citizens of West Boylston to lawfully use and enjoy their private property, and to operate lawful businesses within the Town of West Boylston, and where the authority to promulgate such rules or regulations is vested in a local authority, the town, department, board, committee, commission, or officer, including the Municipal Light Plant, responsible for promulgating such change in policies, rules and regulations shall notify the public of such changes by causing to be published on the town's website a notice of such changes in public policies, rules, regulations, fee schedules, hours of operation, or levels of service on at least (1) occasion at least seven (7) calendar days prior to said effective date. *A5 Oct 19, 2009*

## **ARTICLE XXIV- SUSPENSION OR REVOCATION OF CERTAIN LOCAL LICENSES AND PERMITS FOR FAILURE TO A MUNICIPAL TAXES OR CHARGES**

### **SECTION 1- PURPOSE**

The purpose of this bylaw is to authorize the Town, through its licensing authorities, to deny, revoke or suspend any local license or permit of any party who has neglected or refused to pay any local fees, assessments, betterments or other municipal charges, including amounts assessed under the provisions of Chapter 40, Section 21D of the Massachusetts General Laws, or any license or permit with respect to which the licensed or permitted activity, event or matter is carried out or exercised, or is to be carried out or exercised, on or about real estate by any party who has neglected or refused to pay any local fees, assessments, betterments or other local municipal charges. *A7 Oct 20, 1987, A4 Oct 19, 2009*

### **SECTION 2- DEFINITIONS**

The following definitions shall apply in interpretation and implementation of this bylaw:

1. The term "license" or "permit" shall include any license or permit, including renewals and transfers, issued by any licensing authority in the Town except those licenses specifically excepted by Massachusetts General Law, Chapter 40, Section 57.
2. The term "licensing authority" shall mean the Town Clerk and the Board of Selectmen or any other board, commission, department or division of the Town responsible for the issuing of any license or permit.

3. The term “party” shall mean any person, corporation or business enterprise. *A7 Oct 20, 1987*

### **SECTION 3- DUTIES OF TAX COLLECTOR**

The Tax Collector shall annually furnish to each licensing authority a list of all parties that have failed to pay any local taxes, fees, assessments, betterments or other municipal charges for not less than a twelve month period including, where applicable, identification of the real estate which is the subject of such tax, fee, assessment, betterment or other municipal charge. Said list shall not include the name of any party that has filed an application for abatement of such tax or a petition with the appellate tax board. *A7 Oct 20, 1987*

### **SECTION 4- NOTICES AND HEARING PROCEDURE**

The licensing authority may deny, revoke, suspend or refuse to renew or transfer any license or permit or any party named on the list furnished by the Tax Collector, or any license or permit with respect to which the licensed or permitted activity, event or matter is carried out or exercised, or is to be carried out or exercised, on or about real estate owned by any party named on said list, provided written notice is given to the party and the Tax Collector and a hearing is held not earlier than fourteen days after the notice. The Tax Collector may participate in any such hearing conducted by the licensing authority. Any findings made by the licensing authority with respect to a license denial, revocation or suspension shall be made only for the purpose of the proceeding and shall not be relevant to, or introduced in any other proceeding except for an appeal from such action. *A7 Oct 20, 1987, A41 May 19, 2008*

### **SECTION 5- CONDITIONS ON RE-ISSUANCE OF LICENSES**

Any license or permit that has been denied, suspended or revoked shall not be reissued or renewed until the licensing authority receives a certificate issued by the Tax Collector which states that the party is in good standing with respect to any and all taxes, fees, assessments, betterments or other municipal charges payable to the municipality as of the date of issuance of said certificate.

Any party shall be given the opportunity to enter into a payment agreement; thereby allowing the licensing authority to issue a certificate indicating said limitation to the license or permit. The validity of the license shall be conditioned upon the satisfactory compliance with the agreement. Failure to comply with the agreement shall be grounds for the suspension or revocation of said license or permit, after proper notice and hearing. *A7 Oct 20, 1997*

## **ARTICLE XXV- NON- CRIMINAL DISPOSITION OF BYLAW VIOLATIONS**

Any bylaw of the Town of West Boylston, or rule or regulation of its officers, boards, committees or departments, the violation of which is subject to a specific penalty may, in the discretion of the Town official who is the appropriate enforcing person, be enforced in the method provided in Section 21 D of Chapter 40 of the Massachusetts General Laws. The non-criminal penalty for each such violation, if not otherwise specified, shall be \$100.

“Enforcing person”, as used in this bylaw, shall mean any Town police officer of the Town of West Boylston with respect to any offense; and the Inspector of Buildings and his designees; the members of the Conservation Commission and its designees; the Animal Control Officer or his designee; the Sealer of Weights and Measures and his designees, and such other officials as the Board of Selectmen may from

time to time designate, each with respect to violation of bylaws and rules and regulations within their respective jurisdictions.

If more than one official has jurisdiction in a given case, any such official may be an enforcing person with respect thereto.

Section Number and Name	Enforcing Person	Penalty Schedule
<b>ARTICLE III- TOWN CLERK</b>		
<b>Section 3-</b> Filing of Business Certificates	Town Clerk or Designee	First Offense \$100 Second Offense \$200 Third and Subsequent \$300 in accordance with MGL Ch 110 § 5
<b>ARTICLE XII- PUBLIC WAYS</b>		
<b>Section 9 -</b> Roadway Opening Permit Rules and Regulations	DPW Superintendent, and Police Officer	In the Regulations
<b>Section 10-</b> Parking Rules and Regulations	Police Officer	In the Regulations
<b>ARTICLE XIV- LICENSES AND PERMITS</b>		
<b>Section 1-</b> Licenses and Permits	Police Officer	\$50
<b>Section 2-</b> Solicitors Licenses	Police Officer	\$50
<b>Section 4-</b> transient Vendors	Police Officer	\$50
<b>Section 5-</b> Hawkers and Peddlers	Police Officer	\$20
<b>Section 6-</b> Motel/Hotels Operation Permit	Bd. of Selectmen, Town Administrator, Police Officer	First Offense \$100, Second Offense \$200, Third and Subsequent Offense \$300
<b>ARTICLE XV- BUILDING REGULATIONS</b>		
<b>Section 1-</b> Permits	Inspector of Buildings	\$100
<b>Section 2-</b> Distance from the Street	Inspector of Buildings	\$100
<b>Section 3-</b> Distance from Side Lines	Inspector of Buildings	\$100
<b>Section 4-</b> Electric Installation	Inspector of Wires	\$100
<b>Section 5-</b> Inspections	Inspector of Buildings	\$100
<b>Section 6-</b> Swimming Pools	Inspector of Buildings	\$100
<b>ARTICLE XIX- DOG CONTROL</b>		
<b>Section 1-</b> Licenses and Tags	Animal Control Officer	\$25

<b>Section 2-</b> Restraint and Muzzling of Dog by order of Dog Officer upon Written Complaint	Animal Control Officer	\$25
<b>Section 3-</b> Restraining of Dogs	Animal Control Officer	\$25
<b>Section 4-</b> Removal of Dog Litter	Animal Control Officer & Police Officer	First Offense \$50, All Others \$100
<b>ARTICLE XX- PUBLIC ENTERTAINMENT</b>		
<b>Section 1</b>	Police Officer	\$100
<b>Section 2</b>	Police Officer	\$100
<b>Section 3</b>	Police Officer	\$100
<b>Section 4</b>	Police Officer	\$100
<b>ARTICLE XXVI- PROPERTY ADDRESS NUMBERING</b>		
<b>Entire Bylaw</b>	Fire Chief or Inspector of Buildings	In by-law Section 1, 2: \$50 for each offense
<b>ARTICLE XXXII- FIRE SAFETY BYLAW</b>		
<b>Section 3-</b> Violation of Fire Codes	Fire Chief	\$50 in Accordance with M.G.L. Chapter 148A
<b>ARTICLE XXXVI- TRAFFIC</b>		
<b>Section 3</b>	Police Officer	First offense in 12 month period \$60, Second offense in a 12 month period \$90, and Subsequent offenses in a 12 month period \$120
<b>BOARD OF HEALTH</b>		
Board of Health Dumpster Regulations	Board of Health	In Regulations
Board of Health Garbage & Refuse Removal	Board of Health	In Regulations
Board of Health Disposal Works Installer Permits	Board of Health	In Regulations
Board of Health Smoking in Public Spaces	Board of Health	In Regulations
Board of Health Tobacco Sales to Minors	Board of Health	In Regulations

Without intending to limit the generality of the foregoing, it is the intention of this provision that the following bylaws, rules and regulations are to be included within the scope of this article. The specific penalties as listed herein shall apply in such cases and that in addition to police officers, who shall in all cases be considered enforcing person for the purpose of this provision, the municipal personnel listed for each section, if any, shall also be enforcing persons for such sections. Each day on which any violation exists shall be deemed a separate offense.

Copies of the Board of Health's Rules and Regulations are available for public inspection at the office of the Board of Health, Municipal Office Building, 140 Worcester St., West Boylston)

*A8 Oct 20, 1997, A23 Nov 9, 1998, A37 May 15, 2000, A13 Oct 20, 2008*

GENERAL BYLAWS RULES AND REGULATIONS		
Section Number and Name	Section Number and Name	Section Number and Name

## ARTICLE XXVI- PROPERTY ADDRESS NUMBERING BYLAW

### SECTION 1

In conformity with the provisions of Massachusetts General Laws, Chapter 148 Section 59, all dwellings, public buildings, and businesses shall be properly identified by an address number assigned by the Inspector of Buildings in order to be reasonably visible to persons or vehicles approaching from either direction in the following manner:

Each building shall have its proper and legible number affixed in the front entrance; if the number is not visible from the street, the property shall also display the proper legible number on an object affixed in the ground at the end of the driveway. Said number shall be four inches in height and in contrasting colors. Failure to comply shall subject the property owner to a fine of fifty dollars (\$50.00). Each one-month period of such violation shall be considered a separate offense following notice of violation.

*A19 Nov 13, 2000*

### SECTION 2

No residence shall display any house number other than that officially assigned by the Inspector of Buildings. Failure to comply shall subject the property owner to a fine of fifty dollars (\$50.00). Each one-month period of such violation shall be considered a separate offense following notice of violation.

*A19 Nov 13, 2000*

### SECTION 3

All property owners shall be in compliance with this bylaw by September 1, 2001.

*A19 Nov 13, 2000*

### SECTION 4

All new buildings shall be properly identified with specification listed in this bylaw before an occupancy permit is issued.

The following history of the sections of the By-laws of the Town of West Boylston lists the authority of each article and section by reference to the action of the Annual Town Meeting (ATM) or Special Town Meeting (STM), followed by the number of the Article (Art) on the Warrant and the date of said meeting.

This appendix is for reference only, and is not part of the foregoing by-laws.

*A19 Nov 13, 2000*

#### **ARTICLE XXVII- SANITARY SEWER CONNECTION LOAN**

The Town of West Boylston has made monies available to cover up to \$2,000.00 worth of construction costs borne by owner-occupied-single-family-residential property owners when connecting to the municipal sewer system. Those property owners must apply for those monies in the West Boylston Sewer Department offices and sign a "Sewer Connection Betterment Agreement" to be recorded at the Worcester Registry of Deeds.

The terms of the Betterment Agreement are up to \$2,000.00; interest free, to be paid back to the Town over a 25-year period.

Those monies are available to all owner-occupied-single-family-residential properties for a period of 18 months from the date that sewers are made available to the properties or 18 months from the adoption of this Bylaw, whichever date is later; provided that the property owner apply for said loan within said 18 month period set forth herein.

The Board of Sewer Commissioners, or its successor, shall have the authority to defer deadlines in this bylaws if, in the sole opinion of said Commissioners, the provisions of this Bylaw impose an exceptional burden on a property owner.

*A45 May 20, 2002*

#### **ARTICLE XXVII- PAYMENT OF INTEREST ON DELINQUENT MUNICIPAL CHARGES AND BILLS**

In conformity with the requirements of Massachusetts General Laws, Chapter 40, Section 21 E, any board, committee, commission or officer of the town authorized by law or regulation to bill and collect fees or charges for municipal services shall charge interest at the same rate of interest charges for unpaid tax bills as authorized under the provisions of Chapter 59, Section 57 for all unpaid balances owed after the due date of such fees or charges, effective with the bills and charges incurred for municipal services provided on or after July 1, 2001.

*A40 May 21, 2001*

#### **ARTICLE XXIX- DEPARTMENT OF PUBLIC WORKS**

There shall be established in the Town of West Boylston a Department of Public Works that shall be under the direction of the Board of Selectmen through the Office of the Town Administrator. The Department of Public Works shall consolidate the functions of the Office of the Tree Warden, Streets and Parks



Department and Sewer Department, and shall assume the responsibility for the management and operations of the Office of the Tree Warden, Streets and Parks Department, and Sewer Department.

The Town Administrator and the Board of Selectmen, acting in its capacity as the Board of Sewer Commissioners, shall combine the positions of Superintendent of Streets and Parks, Tree Warden and Superintendent of Sewers so as to create the position of Director of Public Works. The Town Administrator shall appoint a Director of Public Works to a term of three years, subject to the provisions of Chapter 23 of the Acts of 1995 contained in Section 8, Part (h).

The Director of Public Works shall be selected on the basis of merit and qualifications, and have a bachelor's degree in civil engineering or other appropriate discipline, and preferably be registered as a professional civil engineer, and possess a minimum of eight years of relevant professional experience in public works construction and management; and further, such appointment shall be subject to confirmation by vote of a majority of the Board of Selectmen.

The Director of Public Works shall be appointed for a term of up to three years, and may be removed from office upon the recommendation of the Town Administrator for cause after a public hearing and a vote of a majority of members of the Board of Selectmen. The Director of Public Works shall perform the duties and assume the responsibilities of the Superintendent of Streets and Parks, the Tree Warden and Superintendent of Sewers, under the direction and supervision of the Town Administrator in conformity with the policies of the Board of Selectmen.

The Director of Public Works shall work under the terms and conditions of an employment contract, said contract to have a duration with the same commencement and ending date as the term of appointment, and shall authorize not only the terms, conditions and responsibilities of employment for the Director of Public Works, but shall also establish the level of compensation and fringe benefits for the Director of Public Works, subject to the availability of funds.

*A17 May 17, 2004*

## **ARTICLE XXX- SEX OFFENDER RESIDENCY BYLAW**

### **SECTION 1. DEFINITIONS**

1. **"Park"** means public land designated for active or passive recreational or athletic use by the Town of West Boylston, the Commonwealth of Massachusetts or other governmental subdivision, and located within the Town of West Boylston.
2. **"School"** means any public or private educational facility that provides services to children in grades kindergarten - 12.
3. **"Day care center"** means an establishment, whether public or private, which provides care for children and is registered with and licensed pursuant to the laws of the Commonwealth of Massachusetts by the Office of Child Care Services.
4. **"Elderly housing facility"** means a building or buildings on the same lot containing four or more dwelling units restricted to occupancy by households having one or more members fifty-five years of age or older.

5. **“Place of worship”** means a structure used for religious worship or religious education purposes on land owned by, or held in trust for the use of, any religious organization.
6. **“Sex offender”** means a person who resides, works or attends an institution of higher learning in the commonwealth and who has been convicted of a sex offense or who has been adjudicated as a youthful offender or as a delinquent juvenile by reason of a sex offense or a person released from incarceration or parole or probation supervision or custody with the Department of Youth Services for such a conviction or adjudication or a person who has been adjudicated a sexually dangerous person under G.L. c. 123A, §14, as in force at the time of adjudication, or a person released from civil commitment pursuant to section 9 of said chapter 123A, whichever last occurs, on or after August 1, 1981.
7. **“Sex offender registry”** means the collected information and data that is received by the criminal history systems board pursuant to Sections 178C to 178P, inclusive, as such information and data is modified or amended by the sex offender registry board or a court of competent jurisdiction pursuant to said Sections 178C to 178P, inclusive.
8. **“Permanent residence”** means a place where a person lives, abides, lodges, or resides for five (5) or more consecutive days or fourteen (14) or more days in the aggregate during any calendar year.
9. **“Temporary residence”** means a place where a person lives, abides, lodges, or resides for a period of less than five (5) consecutive days or fourteen (14) days in the aggregate during any calendar year, which is not the person’s permanent address or place where the person routinely lives, abides, lodges, or resides and which is not the person’s permanent residence.
10. **“Establishing a residence”** means to set up or bring into being a dwelling place or an abode where a person sleeps, which may include more than one location, and may be mobile or transitory, or by means of purchasing real property or entering into a lease or rental agreement for real property (including a renewal or extension of a prior agreement whether through written execution or automatic renewal).

## **SECTION 2. SEXUAL OFFENDER RESIDENCE PROHIBITION; PENALTIES; EXCEPTIONS**

- a) It is unlawful for any sex offender who is finally classified as a level 2 or 3 offender pursuant to the guidelines of the Sex Offender Registry Board, to establish a permanent residence within two thousand (2,000) feet of any school, day care center, park, elderly housing facility or place of worship.
- b) For purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the permanent residence to the nearest outer property line of a school, day care center or park, elderly housing facility or place of worship.
- c) **Notice to move.** Any registered level 2 or level 3 sex offender who establishes a permanent residence within two thousand (2,000) feet of any school, day care center, park, elderly housing facility or place of worship shall be in violation of this section and shall, within thirty (30) days of receipt of written notice of the sex offender’s noncompliance with this chapter, move from said location to a new location, but said location may not be within two thousand (2,000) feet of any school, day care center, park, elderly housing facility or place of worship. It shall constitute a separate violation for each day beyond the thirty (30) days the sex offender continues to reside within two thousand (2,000) feet of

any school, day care center, park, elderly housing facility or place of worship. Furthermore it shall be a separate violation each day that a sex offender shall move from one location in the Town of West Boylston to another that is within two thousand (2,000) feet of any school, day care center, park, elderly housing facility or place of worship.

- d) **Penalties.** Violation of this bylaw, or of any regulations adopted hereunder, may be enforced through any lawful means in law or in equity by the Board of Selectmen, the Town Administrator, or their duly authorized agents, or any police officer of the Town of West Boylston including, but not limited to, enforcement by non-criminal disposition pursuant to G.L. c. 40, §21D. Each day a violation exists shall constitute a separate violation. The penalties shall be as follows:
- i. First Offense: Notification to offender that he/she has thirty (30) days to move.
  - ii. Subsequent Offense: Non-criminal fine and notification to the offender's landlord, parole officer and/or probation officer and the Commonwealth's Sex Offender Registry Board that the person has violated a municipal ordinance. Such a subsequent offence constitutes a breach of the peace for which the offender is also subject to immediate arrest.
- e) **Exceptions.** A person residing within 2,000 feet of any school, day care center, park, playground, elderly housing facility or place of worship does not commit a violation of this section if any of the following apply:
- i. The person established the permanent residence and reported and registered the residence prior to July 1, 2006.
  - ii. The person was a minor when he/she committed the offense and was not convicted as an adult.
  - iii. The person is a minor.
  - iv. The school, day care center, park, elderly housing facility or place of worship within 2,000 feet of the personal permanent residence was established after the person established the permanent residence and reported and registered the residence pursuant to the Sex Offender Registry Law.
  - v. The person is required to serve a sentence at a jail, prison, juvenile facility, or other correctional institution or facility.
  - vi. The person is admitted to and/or subject to an order of commitment at a public or private facility for the care and treatment of mentally ill persons pursuant to G.L. c. 123.
  - vii. The person is a mentally ill person subject to guardianship pursuant to G.L. c. 201, §6 or a mentally retarded person subject to guardianship pursuant to G.L. c. 201, §6A, residing with his or her guardian or residing within a group residence that is professionally staffed and supervised 24 hours a day.

A33 May 21, 2007

## **ARTICLE XXXI- COMMUNITY PRESERVATION COMMITTEE BYLAW**

### **CHAPTER 1: ESTABLISHMENT**

There is hereby established a Community Preservation Committee, consisting of nine (9) voting members pursuant to MGL Chapter 44B. The composition of the committee, the appointment authority and the term of office for the committee members shall be as follows:

- a) One member of the Planning Board as designated by the Board for a term of three years.
- b) One member of the Conservation Commission as designated by the Commission for an initial term of one year and thereafter for a term of three years.
- c) One member of the Historical Commission as designated by the Commission for an initial term of one year and thereafter for a term of three years.
- d) One member of the Parks Commission as designated by the Commission for an initial term of one year and thereafter for a term of three years.
- e) One member of the West Boylston Housing Authority Board as designated by its Board of Directors for an initial term of two years and thereafter for a term of three years.
- f) Two members to be appointed by the Town Administrator for an initial term of two years and thereafter for a term of three years.
- g) Two members to be appointed by the Town Administrator, for a term of three years.

Should any of the Commissions, Boards, Councils or Committees who have appointment authority under this Chapter be no longer in existence for whatever reason, the appointment authority for that Commission, Board, Council, or Committee shall become the responsibility of the Town Administrator.

### **CHAPTER 2: DUTIES**

1. The Community Preservation Committee shall study the needs, possibilities and resources of the town regarding community preservation. The committee shall consult with existing municipal boards, including the Board of Selectmen, the Conservation Commission, the Historical Commission, the Planning Board, the Parks Commission and the Housing Authority, or persons acting in those capacities or performing like duties, in conducting such studies. As part of its study, the Committee shall hold one or more public informational hearings on the needs, possibilities and resources of the town regarding community preservation possibilities and resources, notice of which shall be posted publicly and published for each of two weeks preceding a hearing in a newspaper of general circulation in the town as well as the Town's website. The Committee may, after proper appropriation, incur expenses as permitted by state law using funds from the community preservation fund to pay such expenses.
2. The Community Preservation Committee shall make recommendations to Town Meeting for the acquisition, creation and preservation of open space; for the acquisition, preservation, rehabilitation and restoration of historic resources; for the acquisition, creation and preservation of land for recreational use; for the acquisition, creation, preservation and support of community housing; and for the rehabilitation or restoration of open space, land for recreational use and community housing that is acquired or created as provided in this section. With respect to community housing, the community preservation committee shall recommend, wherever possible, the reuse of existing buildings or construction of new buildings on previously developed sites.

3. The community preservation committee may include in its recommendation to the Town Meeting a recommendation to set aside for later spending funds for specific purposes that are consistent with community preservation but for which sufficient revenues are not then available in the Community Preservation Fund to accomplish that specific purpose or recommended action to set aside for later spending funds for general purposes that are consistent with community preservation.
4. The Community preservation Committee shall recommend surcharge changes to Town Meeting.

### **CHAPTER 3: REQUIREMENT FOR A QUORUM AND COST ESTIMATES**

The Community Preservation Committee shall not meet or conduct business without the presence of a quorum and shall keep a written record of its proceedings, a copy of which should be filed with the Town Administrator and Town Clerk upon its acceptance. A majority of the members of the community preservation committee shall constitute a quorum. The Community Preservation Committee shall approve its actions by majority vote. Meetings will be held in accordance with the Massachusetts Open Meeting Law. Recommendations to the Town Meeting shall include their anticipated costs.

### **CHAPTER 4: AMENDMENTS**

This Bylaw may be amended from time to time by a majority vote of the Town Meeting, provided that the amendments would not cause a conflict to occur with MGL, Chapter 44B.

### **CHAPTER 5: SEVERABILITY**

In case any section, paragraph or part of this bylaw be for any reason declared invalid or unconstitutional by any court of last resort, every other section, paragraph or part shall continue in full force and effect.

### **CHAPTER 6: EFFECTIVE DATE**

Each appointing authority shall have twenty days after approval to make their initial appointments. The term for the first-appointed Community Preservation Committee shall begin upon appointment in accordance with the preceding paragraph. The one-year appointments shall end on June 30, 2008, the two-year appointments shall end on June 30, 2009, and the three-year appointments shall end on June 30, 2010. Subsequent terms will begin on July 1 of each year and will be for a period of three years. Any vacancy on the Community Preservation Committee shall be filled by the commission, authority or board that designated the member who creates the vacancy by designating another member in accordance with Section (1) above for the unexpired term. *A33 May 21, 2007*

## **ARTICLE XXXII- FIRE SAFETY BYLAW**

### **SECTION 1- ALARM SYSTEM REGISTRATION**

All owners or users of an alarm system shall register said alarm system with the Town on a form prescribed by the Fire and Police Chiefs. This registration shall be renewed annually in the month of January. An alarm registration fee shall be established by the Board of Selectmen upon recommendation of the Fire Chief.

For the purpose of these bylaws an alarm system shall be defined as an assembly of equipment and devices to include a control panel arranged to signal the presence of an emergency situation requiring urgent attention by the Town, its employees or agents. The term alarm system shall not mean individual

battery operated smoke or carbon monoxide detectors or household fire warning systems as required in 780 CMR The Massachusetts State Building Code, Section 3603.16.

## **SECTION 2- ACCESS FOR FIREFIGHTING KEYBOX**

Where access to or within a structure or an area is unduly difficult because of secured openings or where immediate access is necessary for life-saving or fire-fighting purposes, as determined by the Fire Chief or his duly authorized agent, the Fire Chief may require a key box be installed in an accessible location. The key box shall be an approved type and shall contain keys to gain access as required by the Fire Chief.

For the purpose of this section a key box(s) shall not be required for private dwelling units or spaces.

## **SECTION 3- FALSE ALARMS**

The alarm user of any fire alarm system shall be assessed a false alarm charge of \$300.00 for each false fire alarm transmitted by such system after three (3) false alarms in a consecutive twelve (12) month period where such false alarms result in a response by the Fire Department. This shall include false alarms that are transmitted as a result of failure of a responsible party on site to inform the Fire Department of ongoing work within the building, occupancy or space; maintenance, repair, of the alarm system itself which results in the false alarm; and/or lack of proper maintenance of the fire alarm system.

## **SECTION 4- EMERGENCY ADOPTION**

The Fire Chief, with the approval of the Board of Selectmen, may enact emergency regulations where deemed necessary for public safety, fire prevention or life safety. Prior to its enactment, an emergency regulation shall be posted in three (3) public places, require a public hearing, comply with the other requirements of Article XXIII of the General Bylaws, and be approved by the Board of Selectmen.

Any emergency regulation enacted under the authority of this section shall be acted upon for ratification at the next scheduled Semi-Annual Town Meeting. *A18 Oct 15, 2007*

# **ARTICLE XXXII- STORMWATER BYLAW**

## **1.0- PURPOSE**

**A.)** The purpose of this Bylaw is to protect the public health, safety, environment and general welfare by establishing requirements and procedures to manage stormwater runoff, promote groundwater recharge and to prevent water pollution from new development and redevelopment.

This Bylaw seeks to meet that purpose through the following objectives:

- 1.** Establish regulations for land development activities that preserve the health of water resources;
- 2.** Require that the quantity and quality of stormwater discharging from new development both during and after construction maintains or improves these characteristics compared to pre-development conditions in order to reduce flooding, stream erosion, pollution, property damage and harm to aquatic life;
- 3.** Establish stormwater management standards and design criteria to control the quantity and quality of stormwater runoff;

4. Encourage the use of “low impact development practices”, such as reducing impervious cover and preserving greenspace and other natural areas;
5. Establish maintenance provisions to ensure that stormwater treatment practices will continue to function as designed and pose no threat to public safety;
6. Establish procedures for the Town’s review and enforcement of stormwater management plans and for the Town’s inspection of approved stormwater treatment practices.

**B)** Nothing in this Bylaw is intended to replace the existing regulations or bylaws of the Town of West Boylston. All activities are subject to all of the existing provisions of the Town of West Boylston and must comply with the specifications of each regulation or bylaw.

## **2.0- DEFINITIONS**

Definitions are in Appendix A of this Bylaw and shall apply in the interpretation and implementation of the Bylaw. Terms not defined in this Appendix shall be understood according to their customary and usual meaning. Additional definitions may be adopted by separate regulation.

## **3.0- AUTHORITY**

This Bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, and pursuant to the regulations of the Federal Clean Water Act, and as authorized by the residents of the Town of West Boylston at Town Meeting, dated October 15, 2007.

## **4.0- ADMINISTRATION**

**A)** The Stormwater Authority shall be the West Boylston Director of Public Works. The Stormwater Authority shall administer, implement and enforce this Bylaw. All powers granted to or duties imposed upon the Stormwater Authority are extended to the Stormwater Authority’s designees. The Stormwater Authority’s designees for various projects that disturb more than 10,000 square feet are as follows:

<b>Designee</b>	<b>Projects Distributing More 10,000 Square Feet</b>
<b>Planning Board</b>	Subdivisions, Site Plans
<b>Zoning Board of Appeals</b>	Special Permits, Variances, 40B
<b>Earth Removal Board</b>	Earth Removal Permits
<b>Conservation Commission</b>	Projects required and Order of Conditions that do not fall within the categories listed above
<b>Building Inspector</b>	Projects requiring a Building Permit the do not fall within the categories listed above

**B)** Stormwater Regulations. The Stormwater Authority may adopt, and periodically amend, rules and regulations relating to the terms, conditions, definitions, enforcement, fees (including application, inspection, and/or consultant fees), procedures and administration of this Stormwater Bylaw by majority vote of the Stormwater Authority, after conducting a public hearing to receive comments on any proposed revisions. Such hearing dates shall be advertised in a newspaper of general local circulation, at least



fourteen (14) days prior to the hearing date. After public notice and public hearing, the Stormwater Authority may issue rules and regulations to fulfill the purposes of this Bylaw. Failure by the Stormwater Authority to issue such rules and regulations or a legal declaration of their invalidity by a court shall not act to suspend or invalidate the effect of this Bylaw.

**C) Stormwater Management Manual.** The Stormwater Authority will utilize the policy, criteria and information including specifications and standards of the latest edition of the Massachusetts Stormwater Management Policy (see Appendix B), to execute the provisions of this Bylaw. This Policy includes a list of acceptable stormwater treatment practices, including the specific design criteria for each. The Policy may be updated and expanded periodically, based on improvements in engineering, science, monitoring, and local maintenance experience. Unless specifically altered in the Stormwater Regulations, stormwater management practices that are designed, constructed, and maintained in accordance with these design and sizing criteria will be presumed to be protective of Massachusetts water quality standards to the extent authorized.

**D) Actions by the Stormwater Authority.** The Stormwater Authority may take any of the following actions as a result of an application for a Stormwater Management Permit: Approval, Approval with Conditions, Disapproval, or Disapproval without Prejudice.

**E) Appeals of Action by the Stormwater Authority.** A decision of the Stormwater Authority shall be final. Further relief of a decision by the Stormwater Authority made under this Bylaw shall be reviewable in the Superior Court in an action filed within sixty (60) days thereof, in accordance with M.G.L. Ch. 249 § 4.

**F) Right of Entry.** Filing and application for stormwater management permit grants the Stormwater Authority or its designee permission to enter the site to verify the information in the application and to inspect for compliance with permit conditions.

## **5.0- APPLICABILITY**

**A)** This bylaw shall be applicable to all new development and redevelopment; including, but not limited to, site plan applications and subdivision applications. The Bylaw shall apply to any activities that will result in an increased amount of stormwater runoff or pollutants from a parcel of land, or that will alter the drainage characteristics of a parcel of land, unless exempt under Section 5.C of this Bylaw. All new development and redevelopment under the jurisdiction of this Bylaw shall be required to obtain a Stormwater Management Permit.

**B)** An alteration, redevelopment, or conversion of land use to a hotspot (as determined by the Stormwater Authority in conformance with Standard 5 of the Massachusetts Stormwater Management Policy) including, but not limited to, auto salvage yards, auto fueling facilities, fleet storage yards, commercial parking lots with high intensity use, road salt storage areas, commercial nurseries and landscaping, outdoor storage and loading areas of hazardous substances, or marinas, shall require a Stormwater Management Permit.

### **C) EXEMPTIONS**

No person shall alter land within the Town of West Boylston without having obtained a Stormwater Management Permit (SMP) for the property with the following exceptions:

1. Any activity that will disturb an area less than 10,000 (gross) square feet of all contiguous properties.



2. Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulation 310 CMR 10.04 and MGL Chapter 40A Section 3;
3. Maintenance of existing landscaping, gardens or lawn areas associated with a single, two, or three family dwelling;
4. Repair or replacement of an existing roof;
5. Construction of a single-family dwelling, where approval is not required as defined in the Subdivision Control Law, unless the associated land disturbance activity exceeds 10,000 (gross) square feet. Prior to land disturbance activities, persons constructing single-family dwellings are strongly encouraged to consult with the town's Stormwater Authority about actions to reduce stormwater impacts during and after construction. It is also recommended that individuals constructing single-family dwellings prepare and grade lots in such a manner that development of the lot does not cause detrimental drainage on another lot or onto streets either during construction or upon completion.
6. Repair or replacement of an existing septic system when approved by the Board of Health. Persons repairing or replacing septic systems are strongly encouraged to consult with the Town of West Boylston Board of Health or Conservation Commission about actions to reduce stormwater impacts during and after construction.
7. The construction of any fence that will not alter existing terrain or drainage patterns;
8. Construction of a deck, patio, retaining wall, expansion of an existing driveway, construction of a shed, garage, swimming pool, tennis or basketball court associated with a single, two, or three family dwelling that does not disturb more than 10,000 square feet.
9. Construction of utilities (gas, water, electric, telephone, etc.) other than drainage, which will not alter terrain, ground cover, or drainage patterns and for which the total area to be disturbed (even if linear in nature) does not exceed 10,000 s.f. at one time, defined as more than one week of exposed surface area;
10. Emergency repairs to any stormwater management facility or drainage structure or practice that poses a threat to public health or safety, or as deemed necessary by the Stormwater Authority; and
11. Any work or projects for which all necessary approvals and permits have been issued before the effective date of this Bylaw.
12. Normal maintenance of Town owned public land, ways, and appurtenances.

## **6.0- PROCEDURES**

Permit Procedures and Requirements shall be defined and included as part of any rules and regulations issued as permitted under Section 4 of this Bylaw.

## **7.0- ENFORCEMENT**

The Stormwater Authority or its designee shall enforce this Bylaw, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations. Enforcement shall be further defined and included as part of any Stormwater regulations issued as permitted under Section 4 of this Bylaw.

## **8.0- SEVERABILITY**

The invalidity of any section, provision, paragraph, sentence, or clause of this Bylaw shall not invalidate any section, provision, paragraph, sentence, or clause thereof, nor shall it invalidate any permit or determination that previously has been issued.

## **9.0- APPLICATION FEES**

The Stormwater Authority shall receive with each submission an Application Fee ESTABLISHED BY THE Stormwater Authority to cover expenses connected with the review of the Stormwater Management Permit and a technical review fee sufficient to cover professional review services for the project. The Stormwater Authority is authorized to retain a Registered Professional Engineer or other professional consultants to advise the Stormwater Authority on any or all aspects of these plans. Applicants must pay review fees before the review process may begin.

## **10.0- WAIVERS**

- A. The Stormwater Authority may waive strict compliance with any requirement of this bylaw or the rules and regulations promulgated hereunder, where:
    - 1) Such action is allowed by federal, state, and local statutes and/or regulations
    - 2) Is in overriding public interest, and
    - 3) Is not inconsistent with the purpose and intent of this bylaw.
  - B. Any applicant may submit a written request to be granted such a waiver. Such a request shall be accompanied by an explanation or documentation supporting the waiver request and demonstrating that strict application of the bylaw does not further the purposes or objectives of this bylaw.
- 

## **APPENDIX A: DEFINITIONS**

**ALTER:** Any activity, which will measurably change the ability of a ground surface area to absorb water or will temporarily or permanently change existing surface drainage patterns. Alter may be similarly represented as “alteration,” “alteration of drainage characteristics,” and “conducting land disturbance activities.”

**BEST MANAGEMENT PRACTICE (BMP):** Structural, non-structural and managerial techniques that are recognized to be the most effective and practical means to prevent and/or reduce increases in stormwater volumes and flows, reduce point source and nonpoint source pollution, and promote stormwater quality and protection of the environment. “Structural” BMPs are devices that are engineered and constructed to provide temporary storage and treatment of stormwater runoff. “Non-structural” BMPs are measures to reduce pollution levels through managerial measures that reduce impacts through sound planning, design, or operational standards. Non-structural BMPs do not require extensive construction efforts, but they do promote pollutant reduction by eliminating or reducing the pollutant source.

**BETTER SITE DESIGN:** Approaches and techniques used as non-structural BMPs that can reduce a site’s impact on the watershed through the use of nonstructural stormwater management practices. Better site design includes conserving and protecting natural areas and greenspace, reducing impervious cover, and using natural features for stormwater management.

**HOTSPOT:** Land uses or activities with higher potential pollutant loadings, such as, but not limited to, auto salvage yards, auto fueling facilities, fleet storage yards, commercial parking lots with high intensity use, road salt storage areas, commercial nurseries and landscaping, outdoor storage and loading areas of hazardous substances, or marinas.

**MASSACHUSETTS STORMWATER MANAGEMENT POLICY:** The Policy issued by the Department of Environmental Protection, as amended, that coordinates the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act M.G.L. c. 131 § 40 and Massachusetts Clean Waters Act M.G.L. c. 21, §. 23-56. The Policy addresses stormwater impacts through implementation of performance standards to reduce or prevent pollutants from reaching water bodies and control the quantity and quality of runoff from a site.

**NEW DEVELOPMENT:** Any construction or land disturbance of a parcel of land that is currently in a natural vegetated state and does not contain alteration by man-made activities.

**NONPOINT SOURCE POLLUTION:** Pollution from many diffuse sources caused by rainfall or snowmelt moving over and through the ground. As the runoff moves, it transports natural and human-made pollutants, finally depositing them into wetland and/or water resource areas.

**PERSON:** Any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the extent subject to Town Bylaws, administrative agency, public or quasi-public corporation or body, the Town of West Boylston, and any other legal entity, its legal representatives, agents, or assigns.

**PRE-DEVELOPMENT:** The conditions that exist prior to clearing or grading of a site at the time that plans for the land development of a tract of land are submitted to the town. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing conditions at the time prior to the first plan submission shall establish pre-development conditions.

**POST-DEVELOPMENT:** The conditions that reasonably may be expected or anticipated to exist after completion of the land development activity on a specific site or tract of land. Post development refers to the phase of a new development or redevelopment project after completion, and does not refer to the construction phase of a project.

**RECHARGE:** The replenishment of underground water reserves.

**REDEVELOPMENT:** Any construction, alteration, or improvement exceeding land disturbance of 10,000 (gross) square feet, where the existing land use is commercial or industrial.

**STORMWATER AUTHORITY:** The Town of West Boylston Stormwater Authority or its authorized designees. The Stormwater Authority or its designee is responsible for coordinating the review, approval and permit process as defined in this Bylaw. The Stormwater Authority shall be the West Boylston Director of Public Works. All powers granted to or duties imposed upon the Stormwater Authority are extended to the Stormwater Authority's designees. The Stormwater Authority's designees for various projects that disturb more than 10,000 square feet are as follows:

Designee	Projects Distributing More 10,000 Square Feet

<b>Planning Board</b>	Subdivisions, Site Plans
<b>Zoning Board of Appeals</b>	Special Permits, Variances, 40B
<b>Earth Removal Board</b>	Earth Removal Permits
<b>Conservation Commission</b>	Projects required and Order of Conditions that do not fall within the categories listed above
<b>Building Inspector</b>	Projects requiring a Building Permit the do not fall within the categories listed above

**STORMWATER MANAGEMENT PERMIT (SMP):** A permit issued by the Stormwater Authority, after review of an application, plans, calculations, and other supporting documents, which is designed to protect the environment of the Town from the deleterious effects of uncontrolled and untreated stormwater runoff.

*A19 Oct 15, 2007*

## ARTICLE XXXIV- HOUSING PARTNERSHIP COMMITTEE

### MEMBERSHIP

There is hereby established a Housing Partnership Committee of the Town of West Boylston. The Trustees of the West Boylston Affordable Housing Trust shall serve as the members of the Housing Partnership Committee. The Housing Partnership Committee shall have a chairperson selected by a majority vote of the members. The Housing Partnership Committee may have such subcommittees and ad hoc committees as the Housing Partnership Committee may choose to create. *A6 OCT 18, 2010*

### MEETINGS

- a) Meetings of the Members. All meetings of the members shall be held at an Americans with Disabilities Act compliant place within the Town.
- b) Notice. The Housing Partnership Committee shall comply with the provisions of the Open Meeting Law, G.L. c.39, §23B.

### DUTIES

- a) The Housing Partnership Committee shall study the needs for affordable housing and recommend procedures for the development and implementation of the Town's Affordable Housing policy. The Housing Partnership Committee shall consult with the Town Administrator and existing municipal boards, including the Board of Selectmen, Town-Wide Planning Committee, Zoning Board of Appeals, Planning Board, Open Space Committee, Conservation Commission and other boards, committees and agencies as the Housing Partnership Committee may determine.
- b) The Housing Partnership Committee shall act as the Town's initial contact with developers of proposed affordable residential housing projects which are site-specific and for which the developer has indicated an intention to request an increase in allowed density or other variances in return for said provision of affordable housing. In this context, the Housing Partnership Committee will serve as the preliminary negotiating agency of the Town.

- c) The Housing Partnership Committee may also initiate action intended to create and endorse affordable residential housing projects. In this context the Housing Partnership Committee may work to implement a specific project consistent with the Town's housing strategy.

#### **QUORUM**

A majority of the authorized membership of the Housing Partnership Committee shall constitute a quorum, but a smaller number may adjourn finally or from time to time without further notice until a quorum is secured. If a quorum is present, a majority of the members present may take action on behalf of the Housing Partnership.

#### **QUALIFICATIONS**

All members of the Housing Partnership Committee shall be residents of West Boylston. Each member of the Housing Partnership Committee shall serve for a term of two (2) years. Any member of the Housing Partnership Committee may be removed for cause. *A9 Oct 20, 2008, A6 OCT 20, 2010*

### **ARTICLE XXXV- AGRICULTURAL COMMISSION**

#### **MEMBERSHIP AND QUALIFICATIONS**

There is hereby established an Agricultural Commission, consisting of seven members appointed by the Town Administrator. The Commission will consist of a minimum of four members having income derived from farming or agricultural-based enterprises in West Boylston and another three who are interested in farming. Three members shall serve for a term of three years; two members shall serve for a term of two years and three thereafter; and two members shall serve for a one year term, and three years thereafter. It shall have a chairperson selected by a majority vote of the members. It may have such subcommittees and ad hoc committees as the Agricultural Commission may choose to create. All members shall be residents of the Town of West Boylston. Any member of the Agricultural Commission may be removed for cause.

#### **MEETINGS**

- a) Meetings of the Members. All meetings of the members shall be held at an Americans with Disabilities Act compliant place within the Town.
- b) Notice. The Agricultural Commission shall comply with the provisions of the Open Meeting Law, G.L. c.39, §23B.

#### **DUTIES**

The mission of the Commission shall be: Promote agricultural-based economic opportunities; preserve, revitalize and sustain the West Boylston agricultural industry, and encourage the pursuit of agriculture as a career opportunity and lifestyle.

Said Commission once appointed shall develop a work plan to guide its activities. Such activities include, but are not limited, to the following: shall serve as facilitators for encouraging the pursuit of agriculture in West Boylston; shall promote agricultural-based economic opportunities in Town; shall act as mediators, advocates, educators, and/or negotiators on farming issues; shall work for preservation of prime agricultural lands; and shall pursue all initiatives appropriate to creating a sustainable agricultural community.

## QUORUM

A majority of the authorized membership of the Agricultural Commission shall constitute a quorum, but a smaller number may adjourn finally or from time to time without further notice until a quorum is secured. If a quorum is present, a majority of the members present may take action on behalf of the Agricultural Commission. *A16 Oct 20, 2008*

## ARTICLE XXXVI- TRAFFIC

- § 1. Definitions
- § 2. Approval of Massachusetts Highway Department
- § 3. Penalties
- § 4. Push Carts and Riding Animals
- § 5. Sleds and Roller Skates
- § 6. Exemptions from Traffic Ordinances
- § 7. Experimental Regulations

### OPERATION OF VEHICLES

- § 8. Clinging to Moving Vehicles
- § 9. Riding on Vehicle Prohibited
- § 10. Vehicle Weight Exclusions
- § 11. Restricting Collection and Deliveries
- § 12. Keep to the Right of Roadway Division
- § 13. Overtaking Other Vehicles
- § 14. Sound Horn When Necessary
- § 15. Obstructing Intersection or Crosswalk
- § 16. Following Too Closely
- § 17. Care in Starting, Stopping, Turning or Backing
- § 18. Underpasses or Overpasses and Intersections with Islands
- § 19. Driving on Roads Under Construction
- § 20. Driving on Sidewalks
- § 21. Emerging from Alley, Private Driveway, or Building
- § 22. Opening Vehicle Doors
- § 23. Funeral Processions
- § 24. Permits for Parades
- § 25. Obedience to Traffic Signs and Signals
- § 26. Obedience to Stop Signs
- § 27. Obedience to Yield Signs

### TRAFFIC SIGNS, SIGNALS, MARKINGS, AND DEVICES

- § 28. Traffic Control Signal Legend
- § 29. Display of Unauthorized Signs, Signals and Markings
- § 30. Interference with Signs, Signals and Markings

### CIRCULATION REGULATIONS

- § 31. Passenger Curb Loading Zone
- § 32. Commercial Curb Loading Zone
- § 33. Obstructing Travel by Stopping Vehicle
- § 34. Prohibited Left Turns
- § 37. Right Turn Only
- § 38. "U" Turns

## **SPEED REGULATIONS**

### **§ 39. Speed Regulations**

## **PEDESTRIAN CONTROL REGULATIONS**

### **§ 40. Crossing Ways or Roadways**

### **§ 41. Actuation of Traffic Control Signals**

### **§ 42. Obedience to Traffic Control Signals**

### **§ 43. Operators to Exercise Due Care**

### **§ 44. Exemptions**

## **§ 1. DEFINITIONS**

(a) For the purpose of this chapter, the words and phrases used herein shall have the following meanings except in those instances where the context clearly indicates a different meaning.

**"bicycle"** - any wheeled vehicle propelled by pedals and operated by one or more persons.

**"bus stop"** - an area adjacent to the edge of a roadway reserved and designated for the boarding of or alighting from buses.

**"commercial loading zone"** - space adjacent to the edge of a roadway reserved and designated for the exclusive use of commercial vehicles during the loading or unloading of freight.

**"commercial vehicle"** - any vehicle designed, maintained or used in the transportation of goods, wares, or merchandise for commercial purposes, which is registered with the Registry of Motor Vehicles as a commercial vehicle.

**"crosswalk"** - that portion of a roadway ordinarily included within the prolongation or connection of curb lines and property lines at intersections, or any portion of a roadway clearly indicated for pedestrian crossing by lines on the road surface or by other markings or signs.

**"driveway"** - a private way connecting a house, garage or other building or area requiring a vehicular access with the street and designated by a proper curb cut having a Street Access Permit approved by the Board of Selectmen under Article XII, Section 8 of these Bylaws.

**"emergency vehicle"** - vehicles of the fire department or police department or ambulances and emergency vehicles of federal, state and municipal departments.

**"intersection"** - the area embraced within the prolongation or connection of the lateral curb

lines, or, if none, then the lateral boundary lines of the roadways of two or more streets which join one another or the area within which vehicles traveling upon different streets joining at an angle may come in conflict

**"lane"** - a longitudinal division of a roadway into a strip of sufficient width to accommodate the passage of a single line of vehicles.

**"officer"** - any member of the West Boylston Police Department, provided such officer is in uniform or presents his/her badge of office, or any other officer authorized to direct or regulate traffic or to make arrests for the violation of traffic regulations.

**"official traffic control devices"** - all signs, signals, markings, and devices conforming to the standards as prescribed by the Massachusetts Highway Department consistent with these bylaws placed or erected by the authority of a public body or official having jurisdiction, for the purpose of regulating, directing, warning, or guiding traffic.

**"passenger zone"** - a place adjacent to the edge of a roadway reserved and designated for the exclusive use of vehicles during the loading or unloading of passengers.

**"pedestrian"** - any person afoot or riding on a conveyance moved by human power, except bicycles.

**"roadway"** - that portion of a street or highway between designated curb lines or that part improved and intended to be used for vehicular traffic.

**"rotary traffic"** - counterclockwise operation of vehicles around an object or structure.

**"sidewalk"** - that portion of a street between the curb lines or the lateral lines of a roadway, and the adjacent property lines, set aside for the use of pedestrians.

**"standing"** - the non-temporary stopping of a vehicle, whether occupied or not, except that a vehicle shall not be deemed to be standing when it is stopping for the purpose of and while actually engaged in receiving or discharging passengers or in compliance with the instructions of a police officer, traffic control sign or signal, or while making emergency repairs or, if disabled, while arrangements are being made to move such vehicle..

**"street or highway"** - the entire width between property lines of every way open to the use of the public for the purpose of travel.

**"taxicab stand"** - a space adjacent to the edge of a roadway where taxicabs are required to park while waiting to be hired.

**"thickly settled district"** - the territory contiguous to any way which is built up with business structures or dwelling houses whose location will average less than two hundred (200) feet between them for a distance of a quarter of a mile or more.

**"through-way"** - any way within the town's jurisdiction where vehicular traffic from intersecting streets or highways is required to stop before entering or crossing.

**"traffic"** - pedestrians, ridden or herded animals, vehicles or other conveyances individually or collectively using any street or highway for the purpose of travel.

**"traffic island"** - an area or space set aside within a roadway, which is not intended for use by vehicular traffic.

**"u" turn"** - the turning of a vehicle by means of a continuous turn whereby the direction of such vehicle is reversed.

**"vehicle"** - a device in, upon or by which any person or property is or may be transported, or used on a street or highway, including bicycles, when the provisions of these bylaws are applicable to them.



## **§ 2. APPROVAL OF MASSACHUSETTS HIGHWAY DEPARTMENT**

The town shall submit for the approval of the Massachusetts Highway Department all amendments to this Article which may require the approval of the Massachusetts Highway Department. The town shall duly retain such amendments and they shall be open to public inspection and published at least once in a local newspaper.

## **§ 3. PENALTIES**

a) Any person violating a subsection of this Article shall be punished by a fine according to the following schedule:

first offense in any 12 month period	\$ 60.00
second offense in any 12 month period	\$ 90.00
third and any subsequent offense in any 12 month period	\$120.00

b) Unless a different penalty is expressly stated in this Article or other parts of the bylaws.

## **§ 4. PUSH CARTS AND RIDING ANIMALS**

Every person propelling any push cart, riding an animal upon a roadway, or driving an animal-drawn vehicle shall be subject to the provisions of this chapter applicable to the driver of any vehicle, except those provisions of this chapter which by their nature can have no application.

## **§ 5. SLEDS AND ROLLER SKATES**

No person upon roller skates or riding in or by means of any sled, toy vehicle, or similar device, shall go upon any roadway except while crossing a street on a crosswalk, and when so crossing such person shall be granted all of the rights and shall be subject to all of the duties applicable to pedestrians. This section shall apply to any street or roadway open to public use as such unless the same is closed by issuance of a permit from the director of public works and under such restrictions the Board of Selectmen shall prescribe.

## **§ 6. EXEMPTIONS FROM TRAFFIC BYLAWS**

The provisions of this chapter shall not apply to operators, lawfully upon or actually engaged in work upon a street or highway closed to travel or under construction or repair or to officers when engaged in the performance of public duties, or to operators of emergency vehicles while operating in an emergency and in performance of public duties, when the nature of the work of any of these activities necessitates a departure from any part of this chapter. These exemptions shall not, however, exempt the operator of any vehicles from the consequences of his/her actions.

## **§ 7. TEMPORARY REGULATIONS**

For the purposes of experiment, the Board of Selectmen may promulgate temporary traffic rules regulating traffic for a period not exceeding ninety (90) days for the purpose of studying the effect of such traffic regulations under actual conditions, notwithstanding that such temporary regulations may be inconsistent with the provisions of this chapter. No such temporary regulation shall be in force unless such regulations have been duly published in accordance with law and official signs, signals, markings or other devices are displayed.

## **OPERATION OF VEHICLES**

### **§ 8.**

Clinging to Moving Vehicles No person traveling upon a sled, roller skates, coaster, bicycle or any toy vehicle or mechanism shall cling to, or attach himself or herself to any other moving vehicle upon any roadway.

### **§ 9. RIDING ON OR IN VEHICLE PROHIBITED**

- c) a) No person shall ride on or in any portion of a motor vehicle not designated or intended for the use of passengers.
- d) b) No person shall board or alight from a vehicle while it is in motion.

### **§ 10. VEHICLE WEIGHT EXCLUSION**

- e) When official signs are posted specifying weight exclusion for vehicles, no commercial vehicle exceeding the posted authorized carrying capacity shall be permitted upon such posted streets.
- f) An exception to Section 10(a) is made for the delivery and pickup of materials to and from premises abutting upon posted streets which specify weight exclusions or to adjacent streets which cannot be reached by other public ways. This section shall not apply to emergency vehicles as herein defined, or to buses.
- g) Any person violating this section shall be punished by a fine of one hundred dollars(\$100.00).

### **§ 11. RESTRICTING COLLECTION AND DELIVERIES**

When official signs are erected giving notice thereof, there shall be no collection or delivery of goods or materials of any kind between the hours posted on streets or parts of streets except in an emergency, and then only as authorized by the Chief of Police covering one day's delivery or collection.

### **§ 12. KEEP TO THE RIGHT OF ROADWAY DIVISION**

On roadways which are divided by a parkway, grass plot, reservation, viaduct, or by any structure or area, operators shall keep to the right of such a division except when otherwise directed by an officer, signs, signals or markings.

### **§ 13. OVERTAKING OTHER VEHICLES**

The operator of a vehicle shall not overtake and pass a vehicle proceeding in the same direction unless traffic markings allow such passage and there is sufficient clear space ahead on the right side of the roadway to permit the overtaking to be completed without impeding the safe operation of any vehicle ahead and without causing the operator of any such vehicle to change speed or alter course, except as provided in G.L. c. 89, § 2.

### **§ 14. SOUND HORN WHEN NECESSARY**

The operator of a vehicle shall give an audible warning with his or her horn or other suitable warning device whenever necessary to ensure safe operation of a vehicle.

### **§ 15. OBSTRUCTING INTERSECTION OR CROSSWALK**

No operator shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk and on the right half of the roadway to accommodate the vehicle that he or she is operating without obstructing the passage of other vehicles or pedestrians notwithstanding any traffic control signal indication to proceed.

#### **§ 16. FOLLOWING TOO CLOSELY**

The operator of a vehicle shall not follow another vehicle so closely than is reasonable and prudent, having due regard to the speed of such vehicle and the traffic upon and condition of the street or highway.

#### **§ 17. CARE IN STARTING, STOPPING, TURNING OR BACKING**

Before starting, stopping, turning from a direct line, or backing up, the operator of any vehicle shall first see that such movement can be made safely. If the operation of another vehicle could be affected by a stopping or turning movement, the operator of such vehicle shall be given a plainly visible signal.

#### **§ 18. OPERATION AT UNDERPASSES OR OVERPASSES AND AT INTERSECTIONS WITH ISLANDS**

Operators of vehicles shall proceed only as indicated by official signs, signals, or markings at any junction or crossing of ways where the roadway grade has been separated and where the ways are connected by ramps, and at any intersection of ways in which there are traffic islands.

#### **§ 19. DRIVING ON ROADS UNDER CONSTRUCTION**

- a) No operator shall cause a vehicle to enter any street or highway or section thereof when, by reason of construction, surface treatment, maintenance or the like, or because of some unprotected hazard, such road surface is closed to travel and one or more signs, lights or signals have been erected to indicate that all or part of the street or highway is not to be used or when so advised by an officer either audibly or by signals.
- b) Whenever traffic signs or warning lights are erected or warning lights are displayed in or adjacent to a street or highway to notify the presence of personnel and equipment in such street, every operator of a vehicle shall regulate the speed of his vehicle to a degree consistent with the particular condition to ensure public safety.

#### **§ 20. DRIVING ON SIDEWALKS**

The operator of a vehicle shall not drive upon any sidewalk except at a permanent or temporary driveway.

#### **§ 21. EMERGING FROM ALLEY, PRIVATE DRIVEWAY, OR BUILDING**

The operator of a vehicle emerging from an alley, driveway or building shall stop such vehicle immediately prior to entering the roadway or the sidewalk extending across such alley or driveway and shall yield the right of way to any pedestrian as may be necessary to avoid collision. Upon entering the roadway the operator of a vehicle shall yield the right of way to all vehicles approaching upon the roadway.

#### **§ 22. OPENING VEHICLE DOORS**

No person shall open the door of a vehicle on the side adjacent to moving traffic unless and until it is reasonably safe to do so. No person shall leave a vehicle door open on the side of the vehicle adjacent to moving traffic for longer than necessary to load and unload passengers.

#### **§ 23. FUNERAL PROCESSIONS**

- a) All vehicles in a funeral procession shall turn their headlights and taillights on while driving in the procession.
- b) All vehicle operators included in a funeral procession shall keep as near to the right edge of the roadway as is safe and feasible and follow the vehicle in front of it, as practicable.
- c) The operator of the first vehicle in a funeral procession shall be the only one governed by the traffic signal indication or the stop or yield sign at an intersection where there is a stop sign, yield sign or red light traffic control signal.

#### **§ 24. PERMITS FOR PARADES**

No person, group of persons or group of vehicles shall march or parade upon any street or part thereof except under a permit of the Chief of Police designating the route of such parade. There shall be no deviation from the route designated by the Chief of Police and such other requirements as are set forth herein. This section shall not apply to

§ 23 of this chapter, the police and fire departments of the town, nor to the units described in G.L. c. 33, § 50, dealing with the military and naval forces of the United States, or veterans and affiliated organizations.

#### **§ 25. OBEDIENCE TO TRAFFIC SIGNS AND SIGNALS**

The operator of any vehicle or bicycle shall obey the instructions of any official traffic control sign, signal, device, marking or legend, unless otherwise directed by a police officer in the performance of his or her duty. Every such operator shall comply with the order, signal or direction of a police officer notwithstanding any bylaw in this Article to the contrary.

#### **§ 26. OBEDIENCE TO STOP SIGNS**

- a) In accordance with the provisions of G.L. c. 89, § 9, every operator of a vehicle approaching an intersection of ways where there exists facing him an official "stop" sign, or an official flashing red signal indication, shall bring his or her vehicle to a complete stop at such point as may be marked by a sign or line; or if a point is not so marked, before entering the crosswalk. If there is no such crosswalk, then the complete stop shall be made at the point closest to the intersecting roadway where the operator has a view of approaching traffic on the intersecting roadway before entering the intersection.
- b) This section shall not apply when the traffic is otherwise directed by a police officer or traffic control signals, or as provided in § 25 of this chapter.

#### **§ 27. OBEDIENCE TO YIELD SIGNS**

- a) Every operator of a vehicle approaching an intersection of ways where there exists facing him or her an official "yield" sign, shall in obedience to such sign slow down to a speed reasonable for the existing conditions and, if required for safety to stop, shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering it. After slowing or stopping, the driver shall yield the right of way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time such driver is moving across or within the intersection or junction of roadways.
- b) This section shall not apply when the traffic is otherwise directed by a police officer or traffic control signal, or as provided in § 25 of this chapter.

### **TRAFFIC SIGNS, SIGNALS, MARKINGS AND DEVICES**

#### **§ 28. TRAFFIC CONTROL SIGNAL LEGEND**

- a) Colors and arrow indications in traffic control signals shall have the commands ascribed to them in this section and no other meanings; and every operator of a vehicle shall comply therewith, except when otherwise directed by an officer or by a lawful traffic regulating sign, or except as provided in § 25 of this chapter.
- b) An operator of a vehicle shall not enter or proceed through an intersection without due regard to the safety of other persons within the intersection regardless of what indications may be given by traffic control signals.
- c) While the green lens is illuminated, operators facing the signal may proceed through the intersection, but shall yield the right of way to pedestrians and vehicles lawfully within a crosswalk or the intersection at the time such signal is exhibited. Operators of vehicles making a right or left turn shall yield the right of way to pedestrians crossing with the flow of traffic.
- d) As applicable, when a right green arrow is illuminated, operators facing the signal may turn right. When a left green arrow is illuminated, operators facing the signal may turn left. When a vertical green arrow is illuminated, operators facing the signal may go straight ahead. When a green arrow is exhibited together with a red or a yellow lens, operators may enter the intersection to make the movement permitted by the arrow, but shall yield the right of way to vehicles and pedestrians proceeding from another direction on a green indication.
- e) While the yellow lens is illuminated, waiting operators shall not proceed and any operator approaching the intersection or a marked stop line shall stop unless the operator is so close to the intersection that a stop cannot

be made safely. If a green arrow is illuminated at the same time, operators may enter the intersection to make the movement permitted by such arrow.

- f) **1)** Traffic facing a steady red signal shall stop at a clearly marked stop line. If there is no light, traffic shall stop before entering the crosswalk on the near side of the intersection or if there is no crosswalk, then before entering the intersection and shall remain standing until an indication to proceed is shown except as allowed by G.L. c. 89, §8.
- 2)** No driver of a vehicle facing a red signal indication shall make a right turn, or a left turn from a one-way street into another one-way street, where official traffic signs are installed and maintained prohibiting such a turn.
- g) While the red and yellow lenses' are illuminated together, operators shall not enter the intersection. During such time the intersection shall be reserved for the exclusive use of pedestrians.
- h) A flashing red lens shall indicate the intersections at which an operator is required by law to stop before entering.
- i) A flashing yellow lens shall indicate the presence of a hazard and operators may only proceed with caution.
- j) A flashing green lens shall indicate an intersection or pedestrian crosswalk in use or subject to use by entering or crossing traffic. Operators may proceed only with caution and shall be prepared to comply with a change in the signal to a yellow and red indication.

#### **§ 29. DISPLAY OF UNAUTHORIZED SIGNS, SIGNALS AND MARKINGS**

No person shall place, maintain, or display upon or in view of any street any unofficial sign, signal, device or marking which purports to be or is an imitation of or resembles an official traffic sign, signal, device or marking, or which attempts to direct the movement of traffic or which hides from view any official sign or signal. The Chief of Police is authorized to remove every such prohibited sign signal, device or marking or cause it to be removed without notice and he shall receive the cooperation of the Department of Public Works of the town in the performance of this duty.

#### **§ 30. INTERFERENCE WITH SIGNS, SIGNALS AND MARKINGS**

Any person who willfully defaces, injures, moves, obstructs or interferes with any official traffic sign, signal, device or marking shall be liable to a penalty not exceeding one hundred (\$100.00) dollars for each offense.

#### **§ 31. PASSENGER CURB LOADING ZONE**

When official signs are posted giving notice thereof, no person shall stop, stand or park any vehicle at any curb adjacent to the entrance of a building housing twelve (12) or more apartments, bank, church, hotel, railroad station, public building or any place of public assemblage, except for the, purpose of picking up or dropping off passengers. Such entrance shall be designated as a passenger zone by the Board of Selectmen. The Board of Selectmen may remove such signs if it no longer designates a building of such specified use.

#### **§ 32. COMMERCIAL CURB LOADING ZONE**

When official signs are posted giving notice thereof, no person shall stop, stand or park any commercial vehicle at any curb designated as a commercial loading zone for any purpose or for any length of time other than for the expeditious unloading, delivery or pick up and loading of material not to exceed thirty (30) minutes during applicable loading zone hours. Such a zone shall be designated by the Board of Selectmen.

#### **§ 33. OBSTRUCTING TRAVEL BY STOPPING VEHICLE**

No person shall stop any vehicle on any street in such a manner as to hinder or obstruct public travel.

### **CIRCULATION RESTRICTIONS**

#### **§ 34. PROHIBITED LEFT TURNS**

The operator of any vehicle or other conveyance shall not make a left turn from one street into another at the street intersections when official signs are erected giving notice thereof.

### **§ 35. TURNING MOVEMENTS**

- a) Where official traffic control devices are erected directing specific traffic to use a designated lane or designating lanes to be used by traffic moving in a particular direction regardless of the center of the roadway or to prohibit a turn or to make a required turn at an intersection of roadways, drivers of vehicles shall obey the direction of every device.

### **§ 36. PROHIBITED RIGHT TURNS**

The operator of a vehicle or other conveyance shall not make a right turn from one street into another when official signs are posted giving notice thereof.

### **§ 37. RIGHT TURN ONLY**

The operator of a vehicle shall make a right turn only when proceeding in the direction indicated when official signs are erected giving notice thereof.

### **§ 38. "U" TURNS**

- a) The operator of any vehicle shall not make a "U" turn unless such movement can be made safely and without interfering with other traffic.
- b) The operator of a vehicle shall not make a "U" turn when official signs are erected giving notice thereof.

## **SPEED REGULATIONS**

### **§ 39. SPEED REGULATIONS**

- a) No person shall operate a vehicle in excess of the posted speed limits.
- b) No person shall operate a vehicle at a speed greater than reasonable and prudent with regard to traffic and the use of the way and the safety of the public. When no speed limit signs are erected, vehicles shall not exceed thirty (30) miles per hour in a thickly settled district and shall not exceed forty (40) miles per hour in a non-thickly settled district.
- c) No vehicle shall exceed twenty (20) miles per hour in a posted school zone.

## **PEDESTRIAN CONTROL REGULATIONS**

### **§ 40. CROSSING WAYS OR ROADWAYS**

- a) Pedestrians shall obey the directions of officers directing traffic. Whenever there is an officer directing traffic, or whenever there is a traffic control signal within three hundred (300) feet of a pedestrian, no such pedestrian shall cross a way or roadway except at such controlled location. Pedestrian crossings shall be made within the limits of marked crosswalk and as hereinafter provided.
- b) It shall be unlawful for any person to activate a pedestrian control signal or enter a crosswalk unless the person intends to cross the roadway.

### **§ 41. ACTIVATION OF TRAFFIC CONTROL SIGNALS**

- a) At a traffic control signal location where pedestrian indications are provided but which are shown only upon activation by a pedestrian push button, no pedestrian shall cross a roadway unless or until the pedestrian control signal push button has been activated and the pedestrian shall then cross only on the proper pedestrian signal indication. At traffic control signal locations where no pedestrian indication is provided, pedestrians shall cross only on the green indication for such crossing. If necessary, the green indication shall be activated by the pedestrian by means of a push button.
- b) At a traffic control signal location, pedestrians shall yield the right of way to vehicles of a funeral or an authorized emergency vehicle in its performance of emergency duties regardless of the signal indication given. Pedestrians shall not attempt to cross the roadway until such emergency vehicles or funeral procession has passed, at which time pedestrians shall then cross the roadway only as provided herein.

#### **§ 42. OBEDIENCE TO TRAFFIC CONTROL SIGNALS**

Traffic control signal color indications and legends shall have the commands ascribed to them in this section and not other meanings, and every pedestrian shall comply therewith, except when otherwise directed by an officer.

- a) Red and yellow or the word "walk" - Whenever the red and yellow lenses are illuminated together or the single word "walk" is illuminated, pedestrians facing such indication may proceed across the roadway and in the direction of such signals only.
- b) Red alone, "wait" or "don't walk" - At locations where pedestrian indications are provided, whenever the words "wait" or "don't walk" or any indication other than red and yellow shown together are illuminated in a traffic control signal, pedestrians approaching or facing such indication shall wait on the sidewalk, edge of

#### **§ 43. OPERATORS TO EXERCISE DUE CARE**

- a) The provisions of these ordinances shall in no way abrogate the provisions of G.L. c. 90, §§14 and 14A. In the event of a conflict between these bylaws and the general laws, the provisions of the general laws shall control.
- b) Notwithstanding the provisions of these bylaws, every operator of a vehicle shall exercise due care to avoid colliding with any pedestrian upon the roadway and shall give warning by sounding the horn when necessary. Each vehicle operator shall exercise proper precautions which may become necessary for safe operation.

#### **§ 44. EXEMPTIONS**

The provisions of these bylaws governing the use of ways by pedestrians shall not apply to pedestrians engaged in work upon a roadway closed to travel or under construction or repair, by municipal, state, federal or public service corporation employees while in the performance of their duties, to officers engaged in the performance of their public duties, or to pedestrians acting in an emergency when such emergency necessitates departure from any part of these bylaws.

*A42 May 18, 2009*

### **ARTICLE XXXVII- RIGHT TO FARM BYLAW**

*A3 Oct. 18, 2010*

#### **SECTION 1- LEGISLATIVE PURPOSE AND INTENT**

The purpose and intent of the By-law is to state with emphasis the Right to Farm accorded to all citizens of the Commonwealth under Article 97 of the Amendments to the Massachusetts Constitution, and all state statutes and regulations thereunder including but not limited to Massachusetts General Laws Chapter 40A, Section 3, Paragraph 1; Chapter 90, Section 9, Chapter 111, Section 125A and Chapter 128 Section 1A. We the citizens of West Boylston restate and republish these rights pursuant to the Town's authority conferred by Article 89 of the Articles of Amendment of the Massachusetts Constitution, ("Home Rule Amendment").

This General By-law encourages the pursuit of agriculture, promotes agriculture-based economic opportunities, and protects farmland within the Town of West Boylston by allowing agricultural uses and related activities to function with minimal conflict with abutters and Town agencies. This By-law shall apply to all jurisdictional areas within the Town.

#### **SECTION 2- DEFINITIONS**

The word "farm" shall include any parcel or contiguous parcel of land, or water bodies used for the primary purpose of commercial agriculture, or accessory thereto.

The words "farming" or "agriculture" or their derivatives shall include, but not be limited to the following;

- Farming in all its branches and the cultivation and tillage of the soil;
- Dairying;
- Production, cultivation, growing, and harvesting of any agricultural, aquacultural, floricultural, viticultural, or horticultural commodities;
- Growing and harvesting of forest products upon forest land, and any other forestry or lumbering operations;



- Raising of livestock including horses;
- Keeping of horses as a commercial enterprise; and
- Keeping and raising of poultry, swine, cattle, ratites (such as emus, ostriches and rheas) and camelids (such as llamas and camels), and other domesticated animals for food and other agricultural purposes, including bees and fur-bearing animals.
- “Farming” shall encompass activities including, but not limited to, the following:
- Operation and transportation of slow-moving farm equipment over roads within the Town;
- Control of pests, including, but not limited to, insects, weeds, predators and disease organisms of plants and animals;
- Application of manure, fertilizers and pesticides;
- Conducting agricultural-related educational and farm based recreational activities, including agri-tourism, provided that the activities are related to marketing the agricultural output or services of the farm;
- Processing and packaging of the agricultural output of the farm and the operation of a farmer’s market or farm stand including signage thereto;
- Maintenance, repair, or storage of seasonal equipment, or apparatus owned or leased by the farm owner or manager used expressly for the purpose of propagation, processing, management, or sale of the agricultural products; and
- On-farm relocation of earth and the clearing of ground for farming operations.

### **SECTION 3- RIGHT TO FARM DECLARATION**

The Right to Farm is hereby recognized to exist within the Town of West Boylston. The above-described agricultural activities may occur on holidays, weekdays, and weekends by night or day and shall include the attendant incidental noise, odors, dust, and fumes associated with normally accepted agricultural practices. It is hereby determined that whatever impact may be caused to others through the normal practice of agriculture is more than offset by the benefits of farming to the neighborhood, community, and society in general. The benefits and protections of this By-law are intended to apply exclusively to those commercial agricultural and farming operations and activities conducted in accordance with generally accepted agricultural practices. Moreover, nothing in this Right To Farm By-law shall be deemed as acquiring any interest in land, or as imposing any land use regulation, which is properly the subject of state statute, regulation, or local zoning law.

### **SECTION 4- DISCLOSURE NOTIFICATION**

It is the policy of this community to conserve, protect and encourage the maintenance and improvement of agricultural land for the production of food, and other agricultural products, and also for its natural and ecological value. This By-law is intended to constitute disclosure notification to inform buyers or occupants that the property they are about to acquire or occupy lies within a town where farming activities occur. Such farming activities may include, but are not limited to, activities that cause noise, dust and odors. Buyers or occupants are also informed that the buyer’s property within the Town may be impacted by commercial agricultural operations including the ability to access water services for such property under certain circumstances.

### **SECTION 5- PRECEDENCE**

In the event of conflict between this By-law and all other town regulations other than land use regulations, this By-law shall take precedence. In the event of conflict between this By-law and federal or state law, federal or state law shall take precedence respectively.

### **SECTION 6- RESOLUTION OF DISPUTE**

Any person who seeks to complain about the operation of a farm may, notwithstanding pursuing any other available remedy, file a grievance with the Select Board, the Zoning Enforcement Officer, or the Board of Health, depending upon the nature of the grievance. The filing of the grievance does not suspend the time within which to pursue any other available remedies that the aggrieved may have. The Zoning Enforcement Officer or Select Board shall forward a copy of the grievance to the Agricultural Commission or its agent which shall review and facilitate the resolution



of the grievance, and report its recommendations to the referring Town authority within an agreed upon time frame.

The Board of Health, except in cases of imminent danger or public health risk, may forward a copy of the grievance to the Agricultural Commission or its agent, which shall review and facilitate the resolution to the grievance and report its recommendations to the Board of Health within an agreed upon time frame.

#### **SECTION 7- SEVERABILITY CLAUSE**

If any part of this By-law is for any reason held to be unconstitutional or invalid, such decision shall not affect the remainder of this By-law. The Town of West Boylston hereby declares the provisions of this By-law to be severable.

### **ARTICLE XXXVIII- CIVIL FINGERPRINTING**

#### **CRIMINAL HISTORY CHECK AUTHORIZATION**

A. The Police Department shall, as authorized by Massachusetts General Laws Chapter 6, Section 172B½, conduct State and Federal Fingerprint Based Criminal History Checks for individuals applying for the following licenses:

- Hawking and Peddling or other Door-to-Door Salespeople (Licensing Authority: Police Department)
- Manager of Alcoholic Beverage License (Licensing Authority: Board of Selectmen)
- Owner or Operator of Public Conveyance, i.e., Limousine Service (Licensing Authority: Board of Selectmen)
- Dealer of Second-hand Articles (Licensing Authority: Board of Selectmen)
- Pawn Dealers (Licensing Authority: Board of Selectmen)
- Hackney Drivers (Licensing Authority: Board of Selectmen)
- Ice Cream Truck Vendors (Licensing Authority: Board of Selectmen)

B. At the time of the fingerprinting, the Police Department shall notify the individual fingerprinted that the fingerprints will be used to check the individual's criminal history records. The Police Chief shall periodically check with the Executive Office of Public Safety and Security ("EOPSS") which has issued an Informational Bulletin which explains the requirements for town bylaws and the procedures for obtaining criminal history information, to see if there have been any updates to be sure the Town remains in compliance.

C. Upon receipt of the fingerprints, the individual's consent and the appropriate fee, the Police Department shall transmit the fingerprints it has obtained pursuant to this bylaw to the Identification Section of the Massachusetts State Police, the Massachusetts Department of Criminal Justice Information Services (DCJIS), and/or the Federal Bureau of Investigation (FBI) or the successors of such agencies as may be necessary for the purpose of conducting fingerprint-based state and national criminal records background checks of license applicants specified in this bylaw.

The Town authorizes the Massachusetts State Police, the Massachusetts Department of Criminal Justice Information Systems (DCJIS), and the Federal Bureau of Investigation (FBI), and their successors, as may be applicable, to conduct fingerprint-based state and national criminal record background checks, including FBI records, consistent with this bylaw. The Town authorizes the Police Department to receive and utilize State and FBI records in connection with such background checks, consistent with this by-law. The State and FBI criminal history will not be disseminated to unauthorized entities.

#### **USE OF CRIMINAL RECORD BY LICENSING AUTHORITY**

D. Licensing authorities of the Town shall utilize the results of fingerprint-based criminal record background checks for the sole purpose of determining the suitability of the subjects of the checks in connection with the license applications specified in this by-law. A Town licensing authority may deny an application for a license on the basis of the results of a fingerprint-based criminal record background check if it determines that the results of the check render the subject unsuitable for the proposed occupational activity. The licensing authority shall consider all applicable laws, regulations and Town policies bearing on an applicant's suitability in making this determination. Factors that shall be considered in making a determination of fitness shall include, but not be limited to, whether the record subject has been convicted of, or is under pending indictment for a crime, that bears upon the subject's ability or fitness to serve in that capacity, including any felony or a misdemeanor that involved force or threat of force, possession of a controlled substance, or a sex-related offense.

Licensing authorities of the Town are hereby authorized to deny any application, including renewals and transfers thereof, for any person who is determined unfit for the license, as determined by the licensing authority, due to information obtained pursuant to this by-law.

### **FEES**

E. The fees charged by the Police Department for the purpose of conducting fingerprint-based criminal record background checks shall be established by a vote of the Board of Selectmen. The Town Treasurer shall periodically consult with Town Counsel and the Department of Revenue, Division of Local Services regarding the proper municipal accounting of those fees.

A portion of the fee, as specified in Mass. Gen. Laws Chapter 6, Section 172B½, shall be deposited into the Firearms Fingerprint Identity Verification Trust Fund, and the remainder of the fee may be retained by the Town to be expended by the Police Department to help offset costs associated with the administration of the fingerprinting system, subject to Town Meeting appropriation or deposited in a revolving account if and when one is established for that purpose.

### **REGULATIONS**

F. The Board of Selectmen is authorized to promulgate regulations for the implementation of this by-law, but in doing so it is recommended they consult with the Chief of Police, Town Counsel and the Massachusetts Executive Office of Public Safety and Security (or its successor agency) to ensure that such regulations are consistent with the statute, the FBI's requirements for access to the national database, and other applicable state and federal laws.

### **EFFECTIVE DATE**

G. This by-law shall take effect upon approval by the Attorney General, so long as the requirements of G.L. c.40, Section 32 are satisfied.

A 21 May 18, 2015

## **ARTICLE XXXIX- STRETCH ENERGY CODE**

*A17 October 16, 2017*

### **SECTION 1 - DEFINITIONS**

**International Energy Conservation Code (IECC)** - The International Energy Conservation Code (IECC) is a building energy code created by the International Code Council. It is a model code adopted by many state and municipal governments in the United States for the establishment of minimum design and construction requirements for energy efficiency and is updated on a three-year cycle. The baseline energy conservation requirements of the MA State Building Code are the IECC with Massachusetts amendments, as approved by the Board of Building Regulations and Standards.

**Stretch Energy Code** - Codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115.AA of the Massachusetts building code, the Stretch Energy Code is an appendix to the Massachusetts building code, based on further amendments to the International Energy Conservation Code (IECC) to improve the energy efficiency of buildings built to this code.

### **SECTION 2 – PURPOSE**

The purpose of 780 CMR 115.AA is to provide a more energy efficient alternative to the Base Energy Code applicable to the relevant sections of the building code for new buildings.

### **SECTION 3 – APPLICABILITY**

This code applies to residential and commercial buildings. Buildings not included in this scope shall comply with 780 CMR 115.AA, as indicated.

### **SECTION 4 – STRETCH CODE**

The Stretch Code, as codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115.AA, including any future editions, amendments or modifications, is herein incorporated by reference into the Town of West Boylston General Bylaws, Chapter XXXIX.

The Stretch Code is enforceable by the inspector of buildings or building commissioner and effective as of January 1, 2018.

True Copy Attest

Elaine S. Novia, Town Clerk